



## MEMORANDUM

**FROM:** Roger Clark, AICP, Planning and Zoning Director  
**DEPT:** Planning and Zoning  
**TO:** Mayor and Council  
**DATE:** 01/06/2023  
**RE:** Venice Unites Response Letter

**SUBJECT:** Proposed Referendum of the New Land Development Regulations

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**BACKGROUND:** At the December 13<sup>th</sup> City Council meeting, staff presented a response to the issues raised by Venice Unites (VU) in their letter dated October 21, 2022. Ron Smith, representing Venice Unites, presented four of the original six issues that Venice Unites would like to continue discussing. City staff met with Ron Smith and Curt Whittaker from the Venice Unites group on December 20<sup>th</sup> to further discuss the four remaining items and develop mutually acceptable language for potential implementation. Staff received notification from Venice Unites on December 22<sup>nd</sup> indicating the referendum petitioners committee has agreed, that if the City modifies the LDRs to incorporate the changes referenced below, the LDR petition would be withdrawn. Please keep in mind, these four items do not represent the initial requests from Venice Unites, but rather a mutually negotiated version, which could be implemented into the LDRs, should Council direct staff to do so.

Planning staff have provided analysis and identified concerns regarding these items in previous memos and discussions for Council consideration. With this in mind, staff provides the following updated response on the negotiated remaining four items for consideration at a special meeting of City Council scheduled for January 6, 2023:

1. **North and South Edge Districts:**

*Maintain all the existing land use designations and zoning districts but add a note to Table 2.3.4 regarding building height. Height by right in the DE district will remain 35 feet and a possible height exception up to 75 feet will only be available for those properties in the DE district north of Tampa Avenue. The property located at 200 Nassau St. N. will be 35 feet by right and have a height exception of up to 55 feet.*

**Staff Response:** If Council agrees, staff will amend the LDRs consistent with this proposal as it will minimize the creation of non-conformities.

2. **Chapter 89, Sec. 2.2 A.:**

*On any new development on a parcel less than five acres (i) if unplatted, it will be subject to Resource Management Plan under LDR Chap. 89, 2.3(D) (with that Section to be reordered and "protected species" specifically included in the assessment required under D(5); and (ii) if platted, it will be subject to a new Section 2.3(E), providing for a required independent third party professional assessment to identify*

*the presence of protected species, including gopher tortoises, on the lot and such review will be filed with the Planning Department at or before the time a building permit is sought. Would not apply to single family lots within an existing platted subdivision in which a Wildlife Habitat Protection Assessment has already been performed.*

**Staff Response:** The Wildlife and Habitat Protection Assessment (WHPA) is now required for development of property in excess of five acres. In addition, a Resource Management Plan (RMP) is required for development of five or fewer acres where a site and development plan or preliminary plat is required. Staff agrees that the requirements of an RMP could be better worded and reordered and we will make these revisions. The bulk of the concern is for development of property outside the processes that would require these assessment documents. If Council agrees, staff would not be averse to a requirement for an independent third-party professional assessment to identify the presence of protected species, including gopher tortoises, for any development of a vacant lot or parcel. The assessment would be submitted with the application for building permit and confirmed upon zoning review.

### 3. Chapter 87

- **Sec. 2.2.4.5 (7):**

*Add back into the LDR the language of the old LDR, "The district is not intended for use by major or large scale commercial or service establishments."*

**Staff Response:** The proposed text was not in the previous LDR intent statement for PUD zoning. It was located in the intent statement for the no longer active Commercial, Neighborhood (CN) zoning district. It was not included in the new LDRs as it would have been inconsistent with the allowance for a 65,000 square foot building in a PUD. Depending on the determination on the size of a single user building in the PUD, this language may be included in the LDRs applicable to PUD zoning. In addition, if Council desires, staff can also include the text that is referred to in Section 2.2.4.5.7. from Comprehensive Plan Strategy 1.2.16 as follows: *The intent of the non-residential portion of the PUD is to provide for neighborhood scale and serving uses; not for regional purposes.*

- **Section 2.2.7:**

*Traditional District Use Table should indicate that any commercial development within a P.U.D. shall be neighborhood in scale and limited to 20,000 square feet for a single use.*

**Staff Response:** Staff does not have an issue with reducing the 65,000 square feet to a lesser number, but only for PUDs. If Council agrees, staff recommends including this limitation in Section 2.2.4.5.7. regarding non-residential uses in a PUD and including a note indicating this restriction for PUDs in Table 2.2.7. The 65,000 number needs to remain in place for existing large, single user buildings in the rest of the City to avoid making them non-conforming. Regarding "neighborhood in scale", see response above.

- **Section 1.7.3 (B):**

*Additional Application requirements. Restore the following staff proposed language with a 75 percent approval standard. “Unified control shall mean that the applicant either maintains full ownership and control of all land within the district or has received written approval to proceed from [seventy-five?] percent of the property owners within the district.”*

**Staff Response:** It has been brought to staff’s attention by PUD residents that allowing the HOA boards to determine the will of the residents in a PUD, as previously recommended, is not acceptable. Residents want to have a say in what happens within their PUD. Previously, it was determined that a 100% approval by property owners to establish unified control was unrealistic. Although 75% is a significant reduction, staff is unsure whether this is a realistic number either. We are consistent with most governments in that major changes proposed for a PUD require a rezoning of the entire PUD which in turn requires the confirmation of unified control. Most codes do not provide what constitutes unified control at the point of a proposed change when the applicant does not have control over all the property included in the PUD. This is the question at hand. A typical answer could be a simple majority of 51% or a super majority of 66% of property owners within the PUD. If Council determines an appropriate percentage, staff will draft language for a process to confirm such percentage.

4. **Venice Avenue District:**

*Revert the city-wide height method of measurement to the peak of the roof rather than to the mid-line. Within the Venice Avenue District, maintain a ten-foot height exception only with Council approval. Maintain the 20% of building height appurtenance limit from the new LDR.*

**Staff Response:** Since this standard has been used by the City to measure building height since 2013, staff will revise the current LDRs to continue this method of measurement if it is Council’s desire. We are also in agreement with the maintenance of a potential ten-foot height exception with Council approval along with the 20% limitation on appurtenances.

As directed by City Council, the process for implementing some, or all, of these recommended LDR revisions will be as follows: Planning Staff will draft the LDR language revisions, draft language will go before the Planning Commission for consideration, and then the revisions will go before City Council as an Ordinance for final approval. This process will take approximately three months to complete.

**REQUESTED ACTION:** Direct Staff to proceed with implementing LDR revisions as appropriate

Yes	N/A	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	City Attorney Reviewed/Approval
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Risk Management Review
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Finance Department Review/Approval
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Funds Availability (account number): <a href="#">Click or tap here to enter text.</a>

cc: Click or tap here to enter text.