

# 22-38RZ – Milano PUD Amendment

Owner: Border and Jacaranda Holdings, LLC

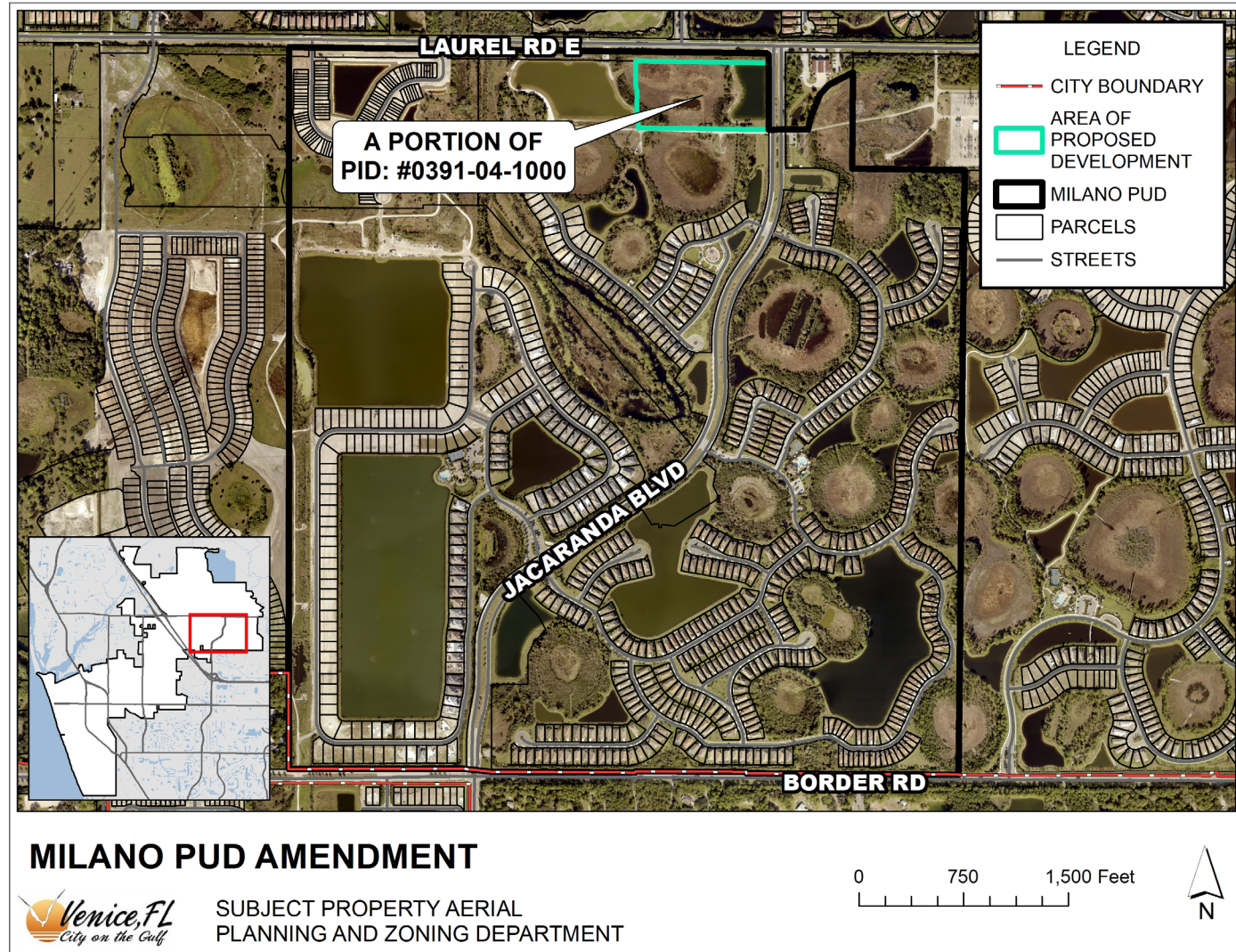
Agent: Jeffery A. Boone, Esq. – Boone Law Firm

General Information	
<b>Address:</b>	Laurel Rd and Jacaranda Blvd
<b>Request:</b>	Changing the land use on a 10-acre portion of the Milano PUD from open space to commercial and adding commercial standards to the Binding Master Plan
<b>Owner:</b>	Border and Jacaranda Holdings, LLC
<b>Agent:</b>	Jeffery A. Boone, Esq. – Boone Law Firm
<b>Parcel ID:</b>	0391041000
<b>Parcel Size:</b>	10.42+ acres
<b>Future Land Use:</b>	Mixed Use Residential (MUR)
<b>Zoning:</b>	Planned Unit Development
<b>Comprehensive Plan Neighborhood:</b>	Northeast
<b>Application Date:</b>	June 14, 2022

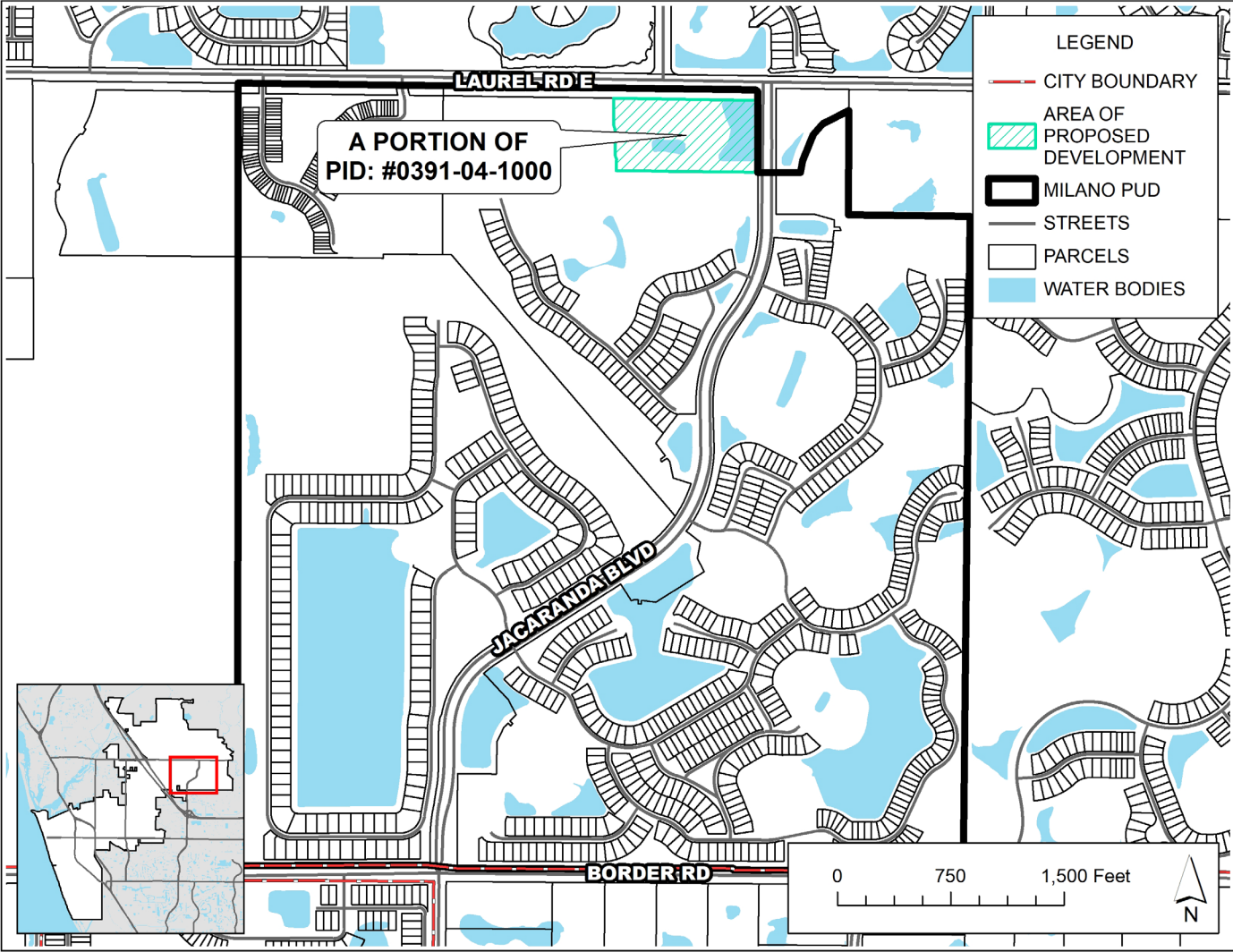
# Project Description

- **This project was applied for under the previous Land Development Regulations (LDR), Chapter 86**
- **The project has been reviewed under both the previous LDR and the Comprehensive Plan as it existed at the time of application**
- Proposed Planned Unit Development (PUD) Amendment for the Milano neighborhood to change the designation of a 10.42-acre portion of the PUD from open space to commercial in the Binding Master Plan
  - Applicant has proposed new non-residential uses, development standards, and a typical buffer
  - Proposal includes a limitation that no single user will exceed 65,000 square feet
  - One code modification requested to eliminate the requirement for a southern landscape buffer, citing 330' FPL easement with additional hundreds of feet of separation from nearest residential structures

# Aerial Map



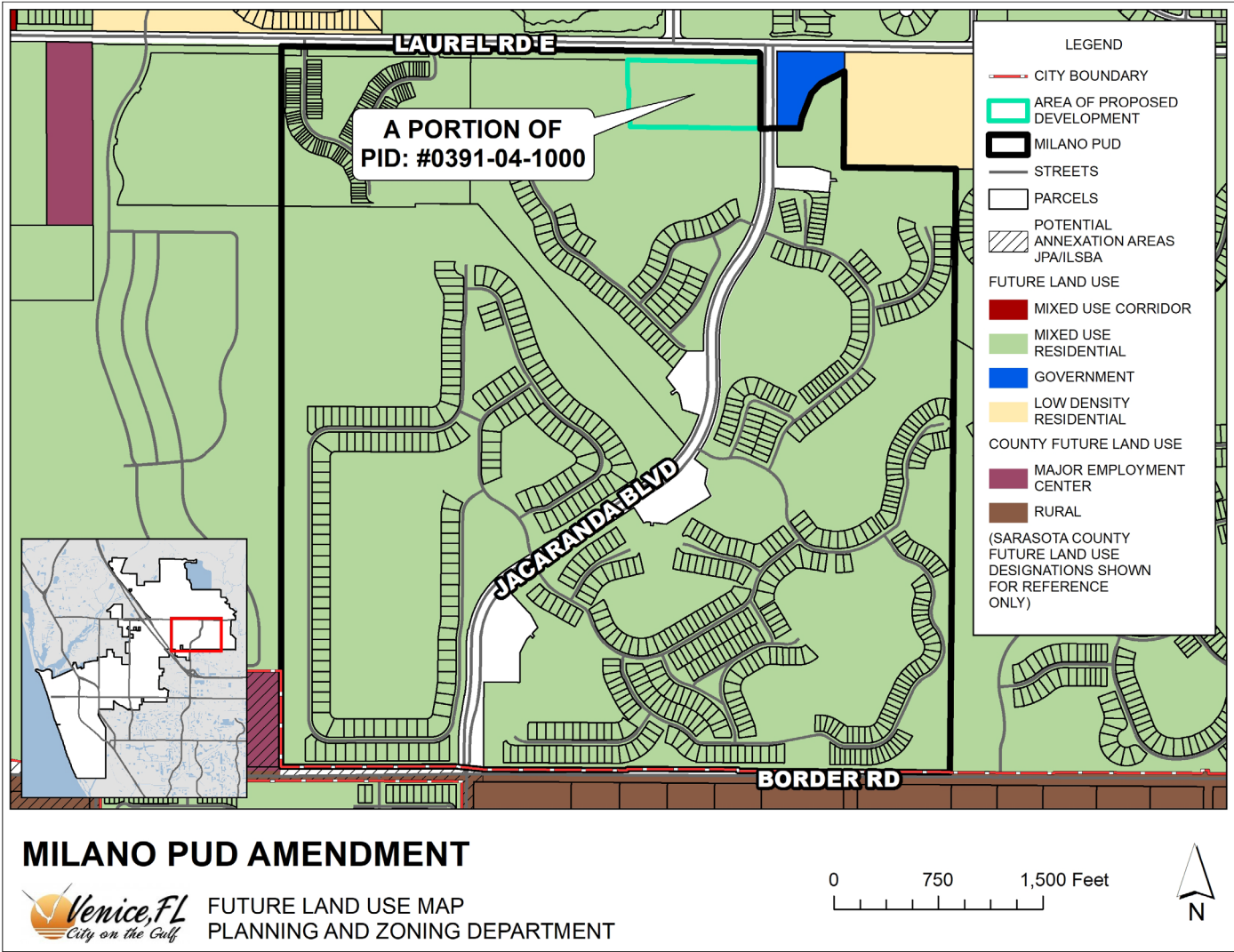
# Location Map



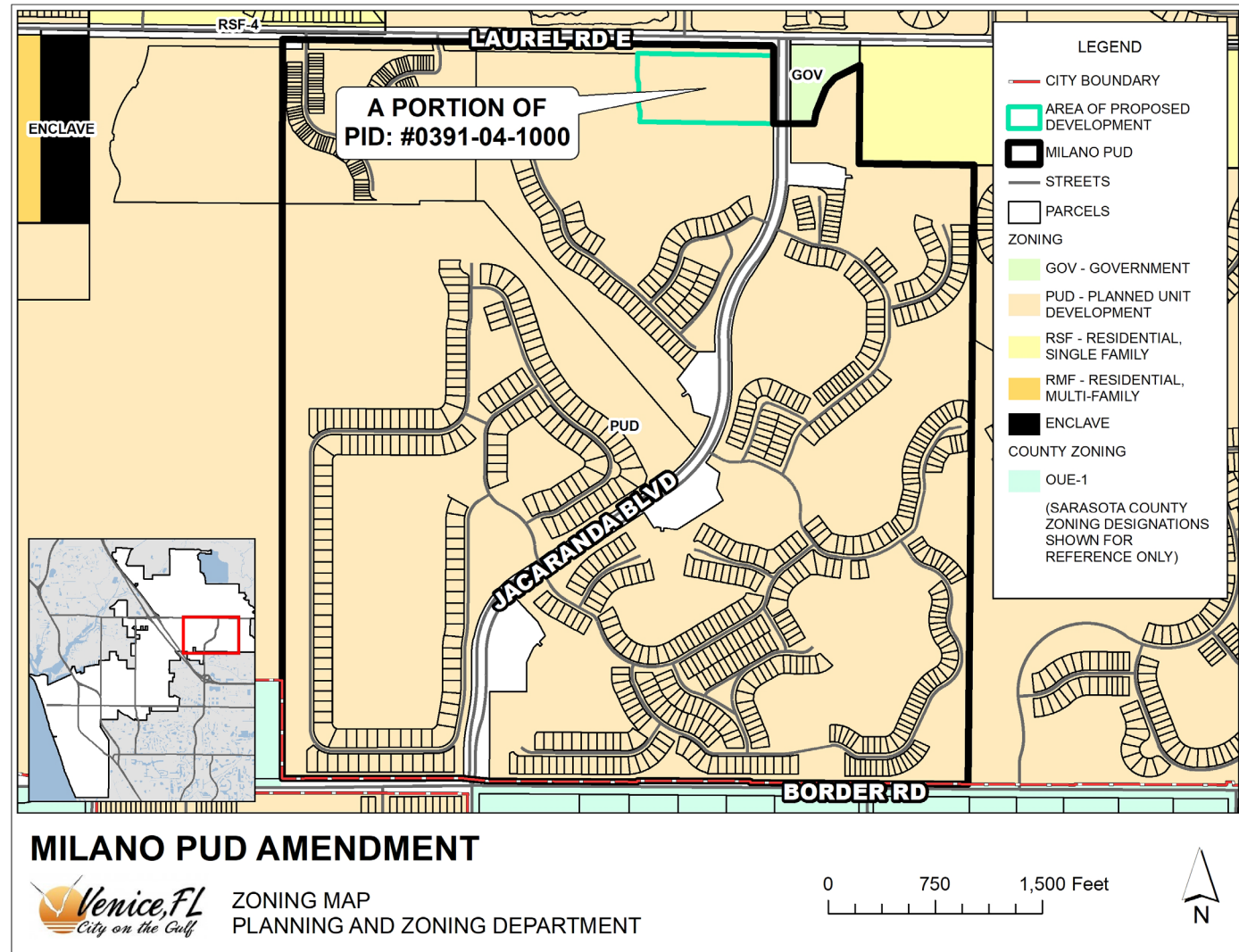
# Existing Conditions

Future Land Use Map, Zoning Map, Site Photos

# Future Land Use Map



# Zoning Map







# Site Photos

# Surrounding Land Uses

Direction	Existing Land Uses(s)	Current Zoning District(s)	Future Land Use Map Designation(s)
North	Venetian Golf and River Club	PUD	MUR
South	Milano	PUD	MUR
East	Fire Station	Government (GOV)	Government (GOV)
West	Milano	PUD	MUR

# Planning Analysis

Comprehensive Plan Consistency, Land Development Code Compliance, Concurrency/Mobility

# Consistency with the Comprehensive Plan

## Land Use Element

### **Strategy LU 1.2.16.6(a) – Mixed Use Residential (MUR)**

- Allows a maximum of 5% nonresidential uses throughout the PUD
  - Approximately 2% of the total land in Milano proposed for commercial development

### **Strategy LU 1.2.16.6(c) – Mixed Use Residential**

- Originally approved for 55.2% open space, reduced to 53% through Petition No. 22-07RZ
- This project reduces open space further to 50.9%, still consistent with the 50% minimum

### **Strategy LU 1.2.16.7(b) – Mixed Use Residential (MUR)**

- Intensity limit of 0.5 Floor Area
- States “[t]he intent of the non-residential portion of the MUR is to provide for neighborhood scale and serving uses; not for regional purposes.” Staff considers a “regional” purpose to be something that would draw users from multiple other jurisdictions

# Consistency with the Comprehensive Plan

## Open Space Element

- Applicant's environmental report reviewed by the City's consultant
- Consultant identified non-compliance with the Comprehensive Plan on five Open Space Strategies: OS 1.2.2, OS 1.3.1, OS 1.3.2, OS 1.4.2, OS 1.4.3
- Responses have not yet been received from the applicant

### **Strategy OS 1.2.2 – Environmental Impact Mitigation**

- City will use the Code and review processes to ensure the applicant evaluates environmental impact and provides any necessary mitigation

### **Strategy OS 1.3.1 – Wetland and Aquifer Recharge Areas Protection**

- City shall use the review processes to limit activities and uses in wetland areas, require development to first avoid impacts and then to mitigate what cannot be avoided, and to maintain the natural flow of water and existing vegetation. The applicant has proposed to fill 6.6 acres of wetland and provide mitigation by buying marsh credits from the Myakka Mitigation Bank.

### **Strategy OS 1.3.2 – Wetland Encroachments**

- Wetland delineations must be reviewed and approved by applicable federal and state agencies, and wetlands of twenty acres or more must not have buildings located in the wetland boundary. The subject property is 10.42 acres.

### **Strategy OS 1.4.2 – Protection of Native Habitats and Natural Resources**

- City is required to protect native habitats by using the review process to preserve existing native vegetation and require development to “first impact lower quality habitats and resources before impacts to higher quality habitats and resources are considered and used.”

### **Strategy OS 1.4.3 – Endangered or Threatened Species**

- Requires minimization of habitat fragmentation and appropriate documentation of listed species

### **Strategy OS 1.11.1 Mixed Use Residential District Requirements**

- Compliant with the requirement for a minimum of 50% open space at 50.9%

# Consistency with the Comprehensive Plan

## Open Space Element

- Consultant comments regarding impacts from offsite drainage and road improvements may be able to be addressed by adding notes to the site plan
- Other consultant comments regarding species data and habitat assessment may be resolved through additional information from the applicant's environmental professionals; no resolution has been reached at this time

# Consistency with the Comprehensive Plan

- No elements or strategies in the Northeast Neighborhood Element were identified as specifically relevant to the subject proposal
- **Former Transitional Strategy LU 4.1.1 – Land Use Compatibility Review Procedures** required a review of **Policy 8.2** regarding compatibility
- Selected notes from staff:
  - Will permit commercial uses in a PUD where none were previously approved
  - Milano PUD is currently single-family in character and no commercial uses are permitted by the Binding Master Plan
  - Will allow increased intensity in an area that was previously open space
  - Intensity will be limited to 0.5 Floor Area Ratio (FAR), with no single user in excess of 65,000 square feet
  - PUD zoning does allow for up to 5% of the total land area to be composed of non-residential uses
  - Proposed Commercial buffer is five feet wide, with one canopy tree per fifty linear feet + continuous hedge
  - Applicant is requesting a modification to waive a buffer requirement to the south
  - No changes to height are proposed
  - Access determined through review of the transportation impact analysis and confirmed through site and development plans

Compatibility of the proposed commercial use with the existing uses needs to be determined with this application.

# Conclusions/ Findings of Fact for Comprehensive Plan Consistency

- Analysis has been provided to determine consistency with the Land Use Element strategies applicable to the Mixed Use Residential land use designation, strategies found in the Northeast Neighborhood, and other plan elements. This analysis should be taken into consideration upon determining Comprehensive Plan consistency.



# Compliance with the Land Development Code

- **Sec. 86-130(b)(8): *Permitted Uses.***

“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.”

- Staff compared uses in the former Commercial, Neighborhood (CN) district with requested permitted uses for this change and found them consistent
- Planning Commission and City Council must determine the appropriate interpretation to make on this code language

# Compliance with the Land Development Code

- **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.”
  - The city’s existing PUDs with commercial uses have these uses along their perimeter
  - Planning Commission and City Council must determine the appropriate interpretation to make on this language
- **Sec. 86-130(j)(3)** requires that land in a PUD designated as open space be restricted for no less than 99 years, recorded as a legal instrument
  - City’s position has historically been that this dedication should take place at the final plat of the last phase of a PUD
  - Recent policy change requiring this at the final plat of each phase of a PUD has not been in place throughout the lifetime of the Milano PUD
  - Binding Master Plan shows a development area of residential lots that have not yet been memorialized through a preliminary or final plat
  - Therefore, final recording of the dedication of open space for the entire PUD has not taken place

## Conclusions/ Findings of Fact for Land Development Code Compliance

- Analysis has been provided by staff to determine compliance with the standards of the land development code. However, the Planning Commission and City Council must determine how to interpret identified code language. The applicant has requested one code modification. Information has been provided by the applicant addressing each of the rezoning considerations contained in Section 86-47(f) of the Land Development Code.

# Public Facilities Concurrency

- The applicant is not requesting confirmation of public facilities concurrency as part of the proposed PUD amendment
- Concurrency will be reviewed with any future development proposal

## ***Conclusion/Findings of Fact (Public Facilities Concurrency):***

- As indicated, the applicant is not seeking confirmation of concurrency with the subject application. However, the proposed zoning map amendment was reviewed by the City's Technical Review Committee (TRC) and no issues were identified regarding facilities capacity.

# Transportation

- Applicant has proposed using data from sources other than the Institute of Transportation Engineers (ITE) manual for trip generation in the TIA, including studies performed in Sarasota and Manatee Counties
- ITE trip generation rates have historically been used for TIAs in the city, including the original analysis for the Milano PUD
  - Proposed methodology inconsistent with the methods used in the previous study
- Local data of good quality may be a viable source, but staff has attempted to maintain consistency – this petition is amending an existing PUD with an existing TIA approval
- No technical requirements for concurrency in the City’s code other than the requirement to submit the TIA for review
  - Transportation not a basis for approval or denial of the petition
  - City uses TIAs to determine where to direct mobility fees for necessary improvements
  - However, transportation issues that may stem from increased intensity can be considered in the evaluation of compatibility and the evaluation of rezoning criteria contained in Sec. 86-47(f)

## Conclusion/ Findings of Fact for Transportation

- The applicant has provided traffic analysis that has been reviewed by the City's transportation consultant and has not been confirmed. This analysis may be used in a consideration of compatibility and evaluation of the required findings for a rezoning petition provided in Sec. 86-47(f), though there are no technical requirements for concurrency related to transportation.

## Conclusion

- Upon review of the petition and associated documents, Comprehensive Plan, Land Development Regulations, Staff Report and analysis, and testimony provided during the public hearing, there is sufficient information on the record for the Planning Commission to make a recommendation to City Council on Zoning Map Amendment Petition No. 22-38RZ.