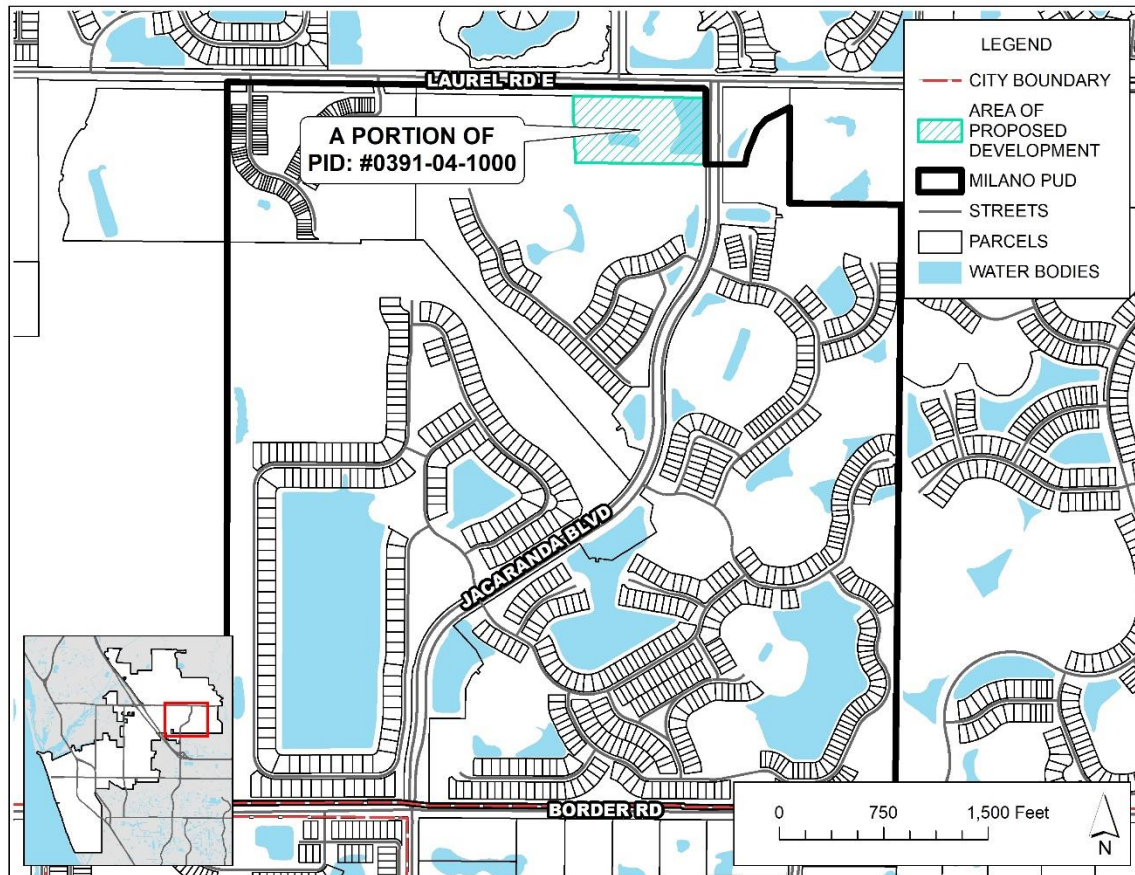


# 22-38RZ– Milano PUD Amendment (Village at Laurel and Jacaranda)

## Staff Report



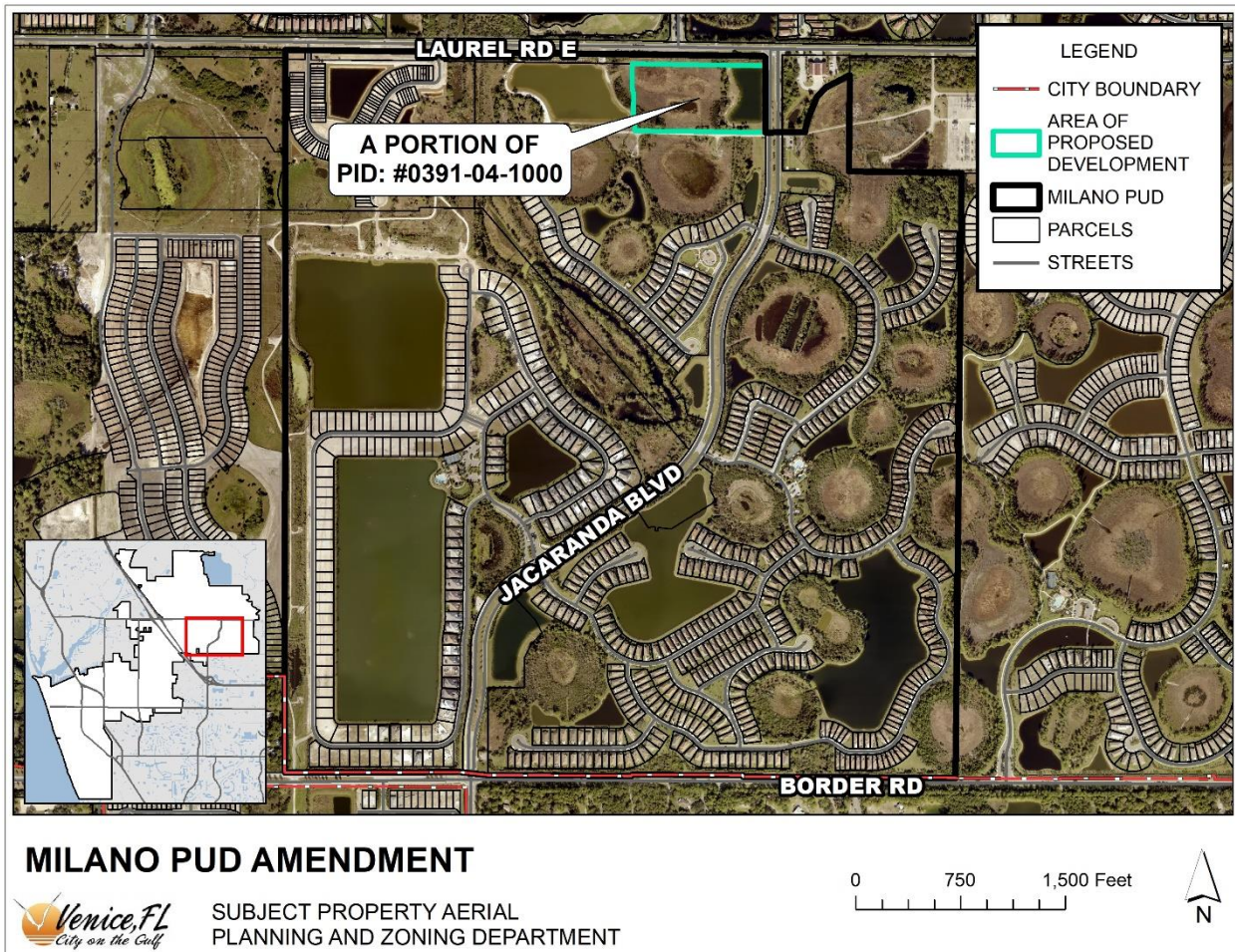
### GENERAL INFORMATION

|                                         |                                                                                                                                                       |
|-----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| <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                                                                                                                                         |

## I. PROJECT DESCRIPTION

This project was applied for under the previous Land Development Regulations (LDR), Chapter 86. Therefore, at the time of application, Comprehensive Plan changes made through Ordinance 2022-18 were not in effect, and this project has been reviewed under both the previous LDR and the Comprehensive Plan as it existed at that time.

The proposed Planned Unit Development (PUD) Amendment for the Milano neighborhood would change the designation of the subject 10.42-acre portion of the PUD from open space to commercial in the Binding Master Plan which would allow for potential development. The applicant has proposed new non-residential uses, development standards, and a typical buffer to be used along Laurel Road and Jacaranda Boulevard. The proposal includes a limitation that no single user in the commercial area will exceed 65,000 square feet. One code modification has been added as well, which proposes to eliminate the requirement for a southern landscape buffer. The applicant states that this buffer will not be needed due to the large separation from adjacent residential uses and existing vegetation within and to the south of the existing utility easement.



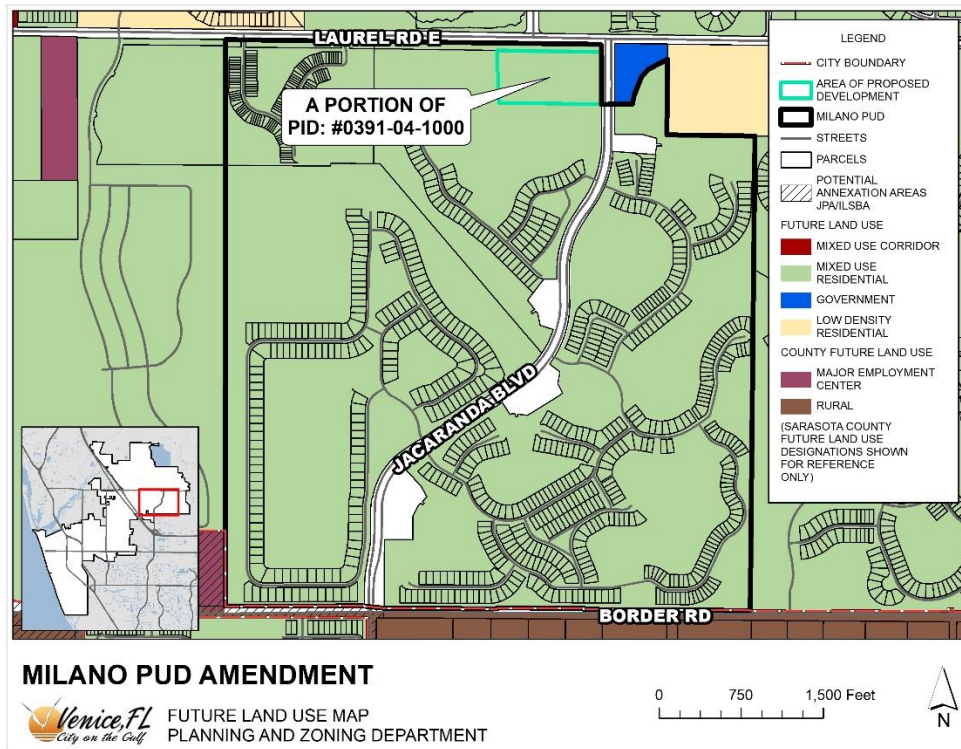
## Site Photographs



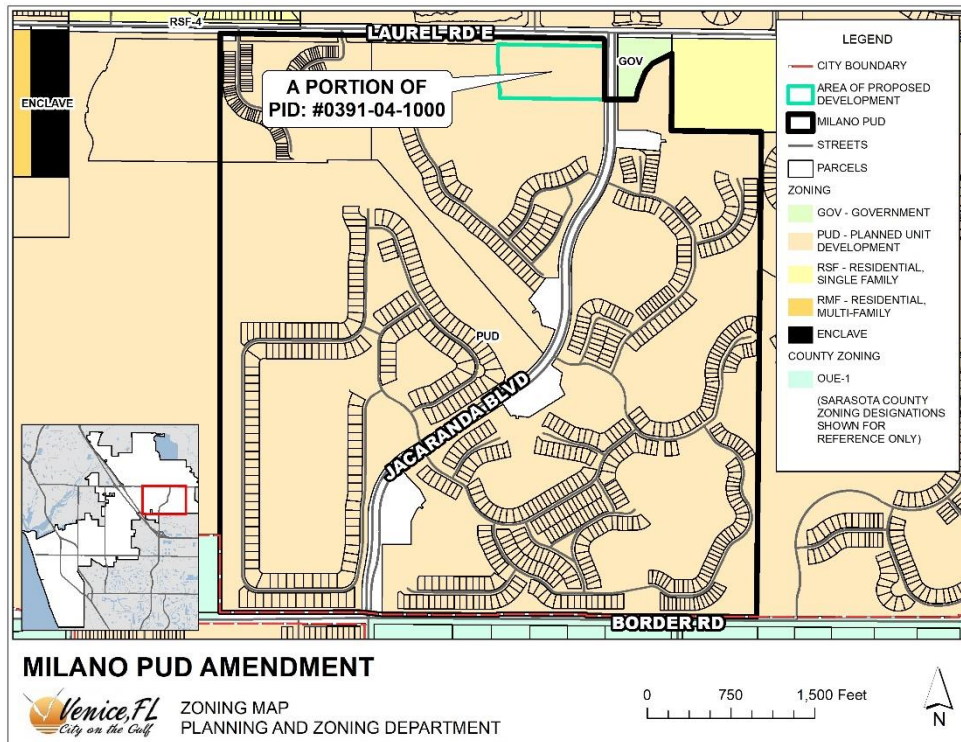
## Future Land Use and Zoning

The Future Land Use designation for the subject property is Mixed Use Residential (MUR). The Zoning district is Planned Unit Development (PUD), as shown on the maps below.

### Future Land Use



### Zoning



### 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                                |

## II. PLANNING ANALYSIS

In this section of the report, analysis of the subject zoning map amendment petition evaluates 1) consistency with the Comprehensive Plan, 2) compliance with the City's Land Development Code (LDC), and 3) compliance with requirements for Concurrence/Mobility. As previously indicated, this project is being reviewed under both the previous LDR and the Comprehensive Plan as it existed at the time of application.

### 1) Consistency with the Comprehensive Plan

#### Land Use Element

**Strategy LU 1.2.16.6(a) – Mixed Use Residential (MUR).** The subject property has an existing Comprehensive Plan Future Land Use designation of MUR, which allows a maximum of 5% nonresidential uses throughout the PUD. This project proposes to use 10 out of 504 acres, or approximately 2%, of the total land in Milano for commercial development.

The most recent amendment to the Milano PUD, petition no. 22-07RZ, reduced the total open space from 55.2% to 53%. This amendment proposes to reduce this further to 50.9%, still consistent with the 50% minimum set by the Comprehensive Plan in **Strategy LU 1.2.16.6(c)**.

**Strategy LU 1.2.16.7(b) – Mixed Use Residential (MUR).** This strategy sets an intensity limit of 0.5 Floor Area Ratio for this property, given that this would be the only non-residential portion of the PUD. This strategy further states, *"The intent of the non-residential portion of the MUR is to provide for neighborhood scale and serving uses; not for regional purposes."* Staff would consider a "regional" purpose to be something that is not readily available elsewhere in the city and would draw users from multiple other jurisdictions. Any future development of this area will require site and development plan review and approval in a public hearing.

#### Open Space Element

The environmental report submitted by the applicant was reviewed by the City's consultant who, identified non-compliance with the Comprehensive Plan on multiple Open Space Strategies. There has been response from the applicant along with additional response from the City's consultant, which are included in the agenda packet. Due to timing, there has not been resolution to these concerns as of the writing of this report. The City's consultant will be in attendance at the public hearing to answer any questions.

**Strategy OS 1.2.2 – Environmental Impact Mitigation.** This strategy states that the City will use the Code and review processes to ensure the applicant evaluates environmental impact and provides any necessary mitigation. The applicant has indicated proposed mitigation.

**Strategy OS 1.3.2 – Wetland Encroachments.** According to this strategy, 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 and therefore does not meet that threshold, though the Comprehensive Plan still requires mitigation of negative impacts. **Strategy OS 1.3.1 – Wetland and Aquifer Recharge Areas Protection** states that the 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 1.4.2 – Protection of Native Habitats and Natural Resources.** This strategy requires the City 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.” This strategy has been considered by the applicant and the City’s consultant, and the results of this are part of the comment and response documents provided.

**Strategy OS 1.11.1 Mixed Use Residential District Requirements.** As previously described, the proposal is compliant with the requirement for a minimum of 50% open space, at 50.9%.

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. The items from this policy are listed below, with applicant responses reproduced verbatim and staff comments included where applicable.

***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 the evaluation of the following items with regard to annexation, rezoning, conditional use, special exception, and site and development plan petitions:***

A. Land use density and intensity.

***Applicant Response:*** *The proposed 10.42 acre commercial designated parcel is limited to 2% of the 503.9 acre PUD, or 40% of the maximum commercial permitted in the PUD. The provision of commercial services in the area will limit trip lengths and allow for multimodal connection to those services by the neighborhood and other nearby properties. The commercial parcel is located so as to mitigate impacts to adjacent and nearby properties with separation from surrounding properties by an FPL easement (south), open space (west), Laurel Road (north) and Jacaranda Boulevard (east).*

B. Building heights and setbacks.

***Applicant Response:*** *The proposed PUD Amendment does not seek to change the currently approved building heights for the Milano PUD. Setbacks will be a minimum of one (1) times the building height from the perimeter of the PUD.*

C. Character or type of use proposed

***Applicant Response:*** *The proposed commercial use is compatible with the surrounding neighborhood, consistent with development patterns in the area, and will provide convenient access to commercial services for the neighborhood.*

D. Site and architectural mitigation design techniques.

***Applicant Response:*** *Site and architectural mitigation design techniques, if necessary, will be established through Site & Development Plan process.*

**Summary Staff Comment:** This proposed change to the Binding Master Plan will permit commercial uses in a PUD where none were previously approved. The change will allow increased intensity in an area that was previously open space, and this intensity will be limited to 0.5 Floor Area Ratio (FAR), with no single user in excess of 65,000 square feet. The character of the use would be commercial development intended to serve the surrounding area, and site design techniques will be analyzed at the time of site and development plan review.

**Considerations for determining compatibility shall include, but are not limited to, the following:**

**Applicant Response:** *The proposed use is not incompatible, nevertheless, the following responses are offered;*

E. Protection of single-family neighborhoods from the intrusion of incompatible uses.

**Applicant Response:** *The proposed commercial use with its extensive separation from nearby single-family homes is compatible. Moreover, single-family neighborhoods will benefit from the provision of such services.*

F. Prevention of the location of commercial or industrial uses in areas where such uses are incompatible with existing uses.

**Applicant Response:** *The proposed commercial use with its extensive separation from nearby single-family homes is compatible. Moreover, single-family neighborhoods will benefit from the provision of such services.*

G. The degree to which the development phases out nonconforming uses in order to resolve incompatibilities resulting from development inconsistent with the current Comprehensive Plan.

**Applicant Response:** *Not applicable.*

H. Densities and intensities of proposed uses as compared to the densities and intensities of existing uses.

**Applicant Response:** *The intensity of the proposed commercial use is significantly below the maximum intensity of commercial uses which could be proposed within the PUD and due to the extensive separation from the existing residential uses, is compatible.*

**Summary Staff Comment:** While the Milano PUD is currently single-family in character and no commercial uses are permitted by the Binding Master Plan, PUD zoning does allow for up to 5% of the total land area to be composed of non-residential uses. The code allows for compatibility to be determined for neighborhood commercial uses at the time of the approval for PUD zoning. Since this proposal is to amend an approved PUD Binding Master Plan, compatibility of the commercial use with the existing uses needs to be determined with this application and confirmed through future site and development plan review.

**Potential incompatibility shall be mitigated through techniques including, but not limited to:**

**Applicant Response:** *The proposed use is not incompatible, nevertheless, the following responses are offered;*

I. Providing open space, perimeter buffers, landscaping and berms.

**Applicant Response:** *Open Space, perimeter buffering, landscaping and berms will be provided to ensure compatibility.*

J. Screening of sources of light, noise, mechanical equipment, refuse areas, delivery and storage areas.

**Applicant Response:** *Sources of light, noise mechanical equipment, refuse areas, delivery and storage will be adequately screened to ensure compatibility.*

K. Locating road access to minimize adverse impacts.

**Applicant Response:** *Road access to the property has been designed to minimize impacts.*

L. Adjusting building setbacks to transition between different uses.

**Applicant Response:** *Building height setbacks of one (1) times the building height have previously been established for the PUD.*

M. Applying step-down or tiered building heights to transition between different uses.

**Applicant Response:** *Building height limits have been previously established for the PUD and are appropriate to ensure compatibility between different uses.*

N. Lowering density or intensity of land uses to transition between different uses.

**Applicant Response:** *The proposed intensity of the commercial parcel combined with the setback and buffering requirements will ensure an appropriate transition between land uses.*

**Summary Staff Comment:** The proposed Commercial buffer is five feet wide, with one canopy tree per fifty linear feet and a continuous hedge at two feet high. Setbacks proposed for this area are ten feet in the front and rear and zero feet along the side. It is noted that the FPL easement to the south of the proposed area of change is approximately 330 feet in width, with additional open space south of the easement, providing for increased separation from residential structures. Due to this separation, the applicant is requesting a modification to waive the requirement for a buffer along the southern edge of the subject property. No changes to height are proposed. Access will be determined through review of the transportation impact analysis and confirmed through site and development plans.

**Conclusions/Findings of Fact (Consistency with the Comprehensive Plan):**

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.

**2) Compliance with the Land Development Code**

This proposed change to a PUD is subject to the requirements of the previous Sec. 86-130 of the Code. This section states the following regarding non-residential uses in a PUD:

*(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.

While the text from the code uses the term “normally,” it may be important to note that the majority of the city’s existing PUDs that have commercial uses have them along their perimeter. It may not be economically feasible to locate commercial uses on the interior of a gated PUD, and, in general, an unsustainable use would not be in the interests of the City or its residents. Planning Commission and, ultimately, City Council must determine the appropriate interpretation to make on this code language as applicable to the proposed application.

Section 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. The City’s position has historically been that this dedication should take place at the final plat of the last phase of a PUD. While a recent policy change has been made to begin requiring this at the final plat of each phase of a PUD, this procedure has not been in place

throughout the lifetime of the Milano PUD. The Binding Master Plan shows a development area of residential lots that have not yet been memorialized through a preliminary or final plat. Therefore, the final recording of the dedication of open space for the entire PUD has not taken place.

Section 86-47(f) of the Land Development Code states that, when pertaining to the rezoning of land, 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 considerations listed below. The Planning Commission materials include the applicant's response to each of the considerations. To facilitate the Planning Commission's review of the subject rezone petition, staff has also provided commentary on selected considerations so that additional information is brought to the Planning Commission's attention.

a. Whether the proposed change is in conformity to the comprehensive plan.

**Applicant Response:** *The proposed change is in conformity to the Comprehensive Plan.*

b. The existing land use pattern.

**Applicant Response:** *The proposed change will provide a convenient location for commercial services to the neighborhood while providing extensive separation from the surrounding neighbors to ensure compatibility with the neighborhood.*

c. Possible creation of an isolated district unrelated to adjacent and nearby districts.

**Applicant Response:** *The proposed change will not change the zoning designation and therefore, will not create an isolated district unrelated to adjacent and nearby districts.*

d. The population density pattern and possible increase or overtaking of the load on public facilities such as schools, utilities, streets, etc.

**Applicant Response:** *The proposed change will not increase density or otherwise increase impacts to any public facilities.*

e. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.

**Applicant Response:** *The proposed change does not change the existing zoning, it is limited to a modification to the currently approved PUD master development plan.*

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

**Applicant Response:** *The need for commercial services in close proximity to the neighborhood in order to limit required vehicle trip lengths currently required to obtain such services makes the proposed change necessary.*

g. Whether the proposed change will adversely influence living conditions in the neighborhood.

**Applicant Response:** *The proposed change will not adversely influence living conditions in the neighborhood, in fact, the change will provide a positive benefit to neighbors.*

h. Whether the proposed change will create or excessively increase traffic congestion or otherwise affect public safety.

**Applicant Response:** *The proposed change will not excessively increase traffic or otherwise affect public safety. Please see the attached transportation analysis from Stantec Consulting Services.*

i. Whether the proposed change will create a drainage problem.

**Applicant Response:** *The proposed change will not create any drainage problem.*

j. Whether the proposed change will seriously reduce light and air to adjacent areas.

**Applicant Response:** *The proposed change will not reduce light and air to adjacent areas.*

k. Whether the proposed change will adversely affect property values in the adjacent area.

**Applicant Response:** *The proposed change will not adversely affect property values in the adjacent areas and will likely increase property values due to the proximity to needed services.*

l. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accord with existing regulations.

**Applicant Response:** *The proposed change will not be a deterrent to the improvement or development of adjacent properties, the adjacent properties are currently developed or in the process of developing.*

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

**Applicant Response:** *The proposed change will not constitute a grant of special privilege to an individual as contrasted with the public welfare, but instead will provide a benefit to the public welfare.*

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

**Applicant Response:** *The proposed change does not seek to change the existing PUD zoning it is limited to a modification of the currently approved PUD master development plan.*

o. Whether the change suggested is out of scale with the needs of the neighborhood or the city.

**Applicant Response:** *The proposed change is not out of scale with the needs of the neighborhood or the City. In fact, the proposed 10.42 acre commercial parcel is well below the allowable 25.2 commercial acreage contemplated for a PUD the size of the Milano PUD.*

p. Whether it is impossible to find other adequate sites in the City for the proposed use in districts already permitting such use.

**Applicant Response:** *Not applicable, the proposed change does not seek to change the current PUD zoning it is limited to a modification of the currently approved PUD master development plan.*

**Summary Staff Comment:** This change is proposed in order to provide commercial uses in a large residential area with very limited non-residential uses. The applicant has stated that this change to the Binding Master Plan is necessitated by the needs of the neighborhood due to its substantial residential population. Regarding scale, the proposal is consistent with the 5% maximum for non-residential uses in a PUD, taking up only 2% of the total land area in Milano. The previous Sec. 86-130(b) included the following item in the permitted uses section for PUDs: *(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.* In the absence of a specific definition of “neighborhood commercial uses” from Sec. 86-570, staff has compared the list of uses in the former Commercial, Neighborhood (CN) district from Chapter 86 with the list of requested permitted uses for this change to the Milano PUD and found them to be consistent. Planning Commission and, ultimately, City Council must determine the appropriate interpretation to make on this code language as applicable to the proposed application.

#### **Conclusions/Findings of Fact (Compliance with the Land Development Code):**

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.

### **3) Public Facilities Concurrency**

The applicant is not requesting confirmation of concurrency as part of the proposed PUD amendment. Concurrency will be reviewed with any development proposal submitted in the future, and a full review will be provided at that time. However, the proposed PUD amendment was reviewed by the City’s Technical Review Committee (TRC) and no issues were identified regarding facilities capacity.

#### **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.

#### 4) Transportation/Mobility

The applicant has submitted a transportation impact analysis (TIA), which has been reviewed by the City's transportation consultant. The applicant has proposed using data from sources other than the Institute of Transportation Engineers (ITE) manual for trip generation, including studies performed in Sarasota and Manatee Counties. The data used by the applicant results in a lower trip generation number than would be found using ITE data. The ITE trip generation rates have historically been used for TIAs in the city, including the original analysis for the Milano PUD, making the proposed methodology inconsistent with the methods used in the previous study. The City's methodology worksheet lays out the policy for project traffic generation:

*The following procedures and information shall be provided:*

1. *To determine project traffic generation, the current edition of ITE Trip Generation report shall be used.*
- :
3. *Trip rates may be obtained from studies of comparable sites in the City of Venice or using data from previous traffic generation studies, and are subject to the approval of the City.*

The data used to determine trip generation was not obtained from sites in the City of Venice or from previous studies within the City, but rather surrounding counties. Merit may be given to each of the two methods, but staff has attempted to maintain consistency in the approach as this petition is amending an existing PUD with an existing TIA approval. It is the applicant's desire to continue with the public hearing process using the data already provided, as there are no technical requirements for concurrency in the City's code other than the requirement to submit the TIA for review. This means that transportation is not a basis for denial of the petition due to the City's adoption of mobility fee collection; the City uses TIAs to determine where to direct mobility fees for necessary improvements to the City's transportation system. However, transportation issues that may stem from increased development intensity, including potential trip generation for the proposed commercial area, can be considered in the evaluation of compatibility and the evaluation of rezoning criteria contained in Sec. 86-47(f).

#### ***Conclusion/Findings of Fact (Mobility):***

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.

### **III. 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.