



MEMORANDUM

FROM: Roger Clark, AICP, Planning and Zoning Director
DEPT: Planning and Zoning
TO: Mayor and Council
DATE: 12/13/2022
RE: Venice Unites Response Letter

SUBJECT: Planning Staff Analysis of the Petitioner's Committee Requests

BACKGROUND: On October 22, 2022, the City Manager received a response letter from the petitioner's committee of the Venice Unites group. In the letter, Mr. Frank Wright, spokesman for the committee provided "explanations and clarifications" on six items from the newly adopted Land Development Regulations (LDR). Following is response from City staff on these items.

1. In Table 2.3.3 of the LDRs, and anywhere else necessary, eliminate "45' through Height Exception." The standard should be, "35' to the peak of the roof with no height exception."

Staff Response: Although staff does not agree with the recommended revision and believes the Planning Commission provided the most sensible standards for building height in the Venice Avenue zoning district, the proposed standard can be applied if Council agrees. In addition, although applicants have had the ability to request additional building height of up to ten feet through a public process since 2003, if it is Council's desire, this ability can be removed.

However, staff would like to point out that measuring to the peak of a building is not typical and will be a limiting factor when it comes to architectural design. Applicants will take full advantage of the entire air space for their buildings which will mandate flat roofs; not consistent with Venice Historic Precedent design that provides the following general statement on roofs:

"Roof forms and roof lines are one of the most important and distinctive design elements which define a building's character. A variety of roof forms, and roof lines, within a single building, add visual interest and are used to reduce the overall massing to produce unique building forms." (Section 7.10.5.A.)

With regard to elimination of the ability to request additional building height of up to ten feet, staff again agrees with Planning Commission that this ability should be maintained. A project will come along that will be a positive addition to the downtown that may require additional height and there will be no way to consider it. We are fortunate that the LDRs allow for structures like the Venice Theater to be rebuilt to

their pre-existing height. However, similar beneficial structures will have no opportunity to be permitted.

2. Change Figure 2.3.4.1. Downtown Edge Regulating Map to eliminate from the Edge District the old Venice Hotel on Nassau St., and include it in the Venice Ave. District, and to eliminate from the Edge District the 200 blocks of Ponce de Leon Ave., Pensacola Rd. and Milan Ave. and include them in the Venice Ave. District, or zone them as RSF-1. The height in the Edge District would be limited to “35’ to the peak of the roof with no height exception.”

Staff Response: Staff’s goal in drafting any type of regulation, whether it be for the Comprehensive Plan or Land Development Regulations, is to not negatively impact property owners or create non-conformities. The committee’s recommendation here results in both, with any legal challenge possibly resulting in significant expense to the taxpayers.

- If the 200 blocks of Ponce De Leon, Pensacola and Milan are removed from the Downtown Edge (DE) and placed in the Venice Avenue (VA) district, the following results:
 - Property owners lose the ability to request additional building height of 30-50 feet. This could result in a negative economic impact on property owners.
 - Existing single-family properties will be rendered non-conforming as this is not a permitted use in the VA district.
- If the 200 blocks of Ponce De Leon, Pensacola and Milan are rezoned to Residential, Single-Family, the following results:
 - Existing single-family properties would be inconsistent with the Comprehensive Plan. A Comprehensive Plan amendment to Low Density Residential would be required.
 - Existing single-family properties would lose all the uses provided by the mixed-use DE district. This could result in a negative economic impact on property owners.
 - Any non-residential uses would now be inconsistent with the Comprehensive Plan which does not permit non-residential use in an area designated as residential.
 - Increased staff time involved in the processing of the various land use applications.

If it is Council’s desire to address this item, staff recommends maintaining all the existing land use designations and zoning districts and revising the text of 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. This will include the old Venice Hotel which would be made non-conforming if it was to be limited to 35 feet. This building is approximately 55 feet tall. Limiting the building height in the area north of Tampa Avenue to 35 feet is not recommended due to the existence of multiple buildings significantly taller than 35 feet such as Costa Brava, Waterfront Towers, and the Epiphany Cathedral. These structures would all be rendered non-conforming.

3. P.U.D.s-

- Section 2.2.4.5(7) – the reference to “several neighborhoods” should be stricken, making the reference to “a neighborhood.” 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: This text was taken directly from the previous code from the intent statement for the Commercial, Neighborhood (CN) zoning district. A CN approach is often referred to as the appropriate type of commercial for a PUD. The reference to “several” neighborhoods is an accurate description of how non-residential uses function in the City’s and most PUDs. Staff strongly recommends the retention of this language.

Regarding “large scale commercial or service establishments”, if removed would be inconsistent with the current allowance for single user retail and service establishments up to, and in excess of 65,000 square feet. However, staff would not have an issue with reducing the 65,000 square feet to a lesser number, but only for PUDs. This number needs to remain in place for existing large single user buildings in the rest of the City to avoid making them non-conforming.

- 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 s.f.

Staff Response: See above response.

- Section 4.1 Compatibility – Not all incompatible uses can be mitigated. Retain language from Comp Plan Policy 8.2 (see fn)

Staff Response: The statement that “Not all incompatible uses can be mitigated” is inconsistent with the intent of the former Policy 8.2 that has always provided compatibility mitigation techniques. In addition, the compatibility matrix in Strategy LU 1.2.8 and Figure LU-9 in Strategy LU 1.2.16 do not identify land use as incompatible, but “potentially” incompatible. Strategy LU 1.2.8 identifies mitigation techniques consistent with Policy 8.2. These techniques can be applied to address any potential incompatibility.

Regarding retention of Policy 8.2, in order to be consistent with the direction of the Comprehensive Plan that indicates “The City shall adopt standards in the Land Development Code which regulate building height, architectural standards, and compatibility”, we included LDR standards to address these items. For example:

- Building height standards have been provided in each of the zoning districts that provide restriction on height by right and additional height through height exception. The majority of these heights have been reduced. Architectural requirements have been provided throughout the City in the appropriate zoning districts.
- Section 4.1.A. of the introduction to Section 4 provides the

following items for decision maker consideration taken directly from the definition of compatibility:

1. Some elements affecting compatibility include the following: height, scale, mass and bulk of structures, pedestrian or vehicular traffic, circulation, access and parking impacts, landscaping, lighting, noise, odor and architecture.
 2. Section 4.1.C. adds preliminary plat to the list of applications that require compatibility consideration.
- Section 4.4.A. includes the six mitigation techniques from Policy 8.2, I. through N. word for word. And all zoning map amendments, site and development plans, preliminary plats, and conditional use petitions are subject to these mitigation techniques.
 - Section 4.4.C. provides an additional mitigation technique. It indicates that building step-backs be considered for buildings in excess of district height standards.
 - And finally, Sections 4.2 and 4.3 provide six perimeter buffer types that are based on proposed development compared to adjacent development to address compatibility.

All of these code sections together provide the decision maker the ability to establish competent and substantial evidence to either approve or deny a land use petition based on compatibility.

- Section 1.7.3 (B) – We believe a 100% approval standard is unreasonable, and suggest instead 80%.

Staff Response: During the review of the LDRs, staff attempted to define “unified control” as having 100% approval from owners of property within a PUD in order to rezone the PUD. It was pointed out that this would be unreasonable. After further consideration, staff recommends that in order to establish unified control to propose a modification to a PUD that requires the entire PUD to be rezoned per code section 1.7.7.D., all HOA boards representing property owners in the PUD must provide their approval of the proposed rezone. If this approval cannot be provided, the rezoning cannot be requested and therefore, the proposed modification cannot be accomplished.

4. The separation of the two boards may be accomplished by adopting the proposed ordinances submitted by the two boards to the Planning Commission.

Staff Response: The Historic and Architectural Preservation Board (HAPB) has been established and have met multiple times. A good balance has been achieved in both areas of architectural design and historic preservation through the designation of the board members. The application for Certified Local Government (CLG) application has been recommended by City Council for submittal to the State for consideration and we anticipate approval for the designation. To separate the two boards at this point to reestablish the previous boards would require significant code revision and would significantly delay the acquisition of the CLG designation. Staff does not recommend this action and would request the HAPB be given 1-2 years to establish itself with required reevaluation after such time in order to make a determination on its

effectiveness and functionality.

5. New Historic Districts may be created as in the Attachment A.

Staff Response: There is nothing to prohibit City Council from directing the HAPB to establish a new historic district and Council has the ability to add a process for creation of a new historic district if so desired. However, staff agrees that Planning Commission’s provision for anyone to apply to be on the Local Register of Historical Resources could establish a specific area as historic without risking a legal challenge. Property rights were paramount with Planning Commission and it is important to recognize the State Legislatures concern with property rights as well. This is evident in the State legislatures requirement of 2021 for a property rights Element to be included in all comprehensive plans and the expediency with which it was required. Planning Commission’s concern for property rights is consistent with this legislation and with the Comprehensive Plan.

6. Protected Species-

(for Chapter 89, Section 2.2 Wildlife and Habitat Protection Assessment)

Applicability. A Wildlife and Habitat Protection Assessment (WHPA) shall be required for all development petitions that include new development. This assessment shall be included in the binding master plans for rezoning to Planned Districts, as well as the applications for preliminary plats and site and development plans. The objective of this assessment is to identify, if applicable, any impacts of development on unique habitats and protected, endangered, or threatened species. Where a project has completed a WHPA through prior petitions or applications, the date of the WHPA is not older than (1) year, and the conditions of the subject properties have not changed, a new WHPA shall not be required.

Staff Response: The WHPA that is now required for development of property in excess of five acres is new to the City’s LDRs. In addition, a Resource Management Plan is required for development of five or fewer acres where a site and development plan or preliminary plat is required. Staff has been directed by City Council to research and evaluate processes for assessment of protected species on smaller lots such as single-family lots outside of a preliminary plat. We are in the process of evaluating procedures used by other municipalities and counties and will be reporting to Council in January of 2023.

REQUESTED ACTION: [Click or tap here to enter text.](#)

Yes N/A

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| <input type="checkbox"/> | <input type="checkbox"/> | City Attorney Reviewed/Approval |
| <input type="checkbox"/> | <input type="checkbox"/> | Risk Management Review |
| <input type="checkbox"/> | <input type="checkbox"/> | Finance Department Review/Approval |
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