

From: [Dan Lobeck](#)
To: [Jeffery A. Boone](#); [Kelly Fernandez](#)
Cc: [annette.boone@boone-law.com](#); [jcollins@boone-law.com](#); [Jackson Boone](#); [Lee Fosco](#); [Nicholas Pachota](#); [Jim Boldt](#); [Mitzie Fiedler](#); [Rachel Frank](#); [Rick Howard](#); [Richard Longo](#); [Helen Moore](#); [Mercedes Barcia](#); [Roger Clark](#); [Mercedes Tech](#); [Kelly Michaels](#)
Subject: RE: Milano PUD Zoning Map Amendment - Motion to Strike
Date: Monday, May 22, 2023 10:59:21 PM

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Jeff:

Your Motion to Strike was attached to my email. So no need to distribute it. And as to the propriety of letting Council see it in advance, as you know courts always see motions when they are filed, as well as responses to motions, and no one sees that as improper (or poisonous).

I hope that the transcript excerpts of Mr. Neal's sworn testimony about who the Commercial Center would serve, as you present them with your Motion, are read in full.

Thank you for your focus on them.

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From: Jeffery A. Boone <JBoone@boone-law.com>
Sent: Monday, May 22, 2023 10:16 PM
To: Dan Lobeck <dlobeck@lobeckhanson.com>; Kelly Fernandez <kfernandez@flgovlaw.com>
Cc: Annette Boone <Annette.Boone@boone-law.com>; Jim Collins <JCollins@boone-law.com>; Jackson Boone <Jackson.Boone@boone-law.com>; Lee Fosco <LFosco@boone-law.com>; Nick Pachota <npachota@venicefl.gov>; Jim Boldt <jboldt@venicefl.gov>; Mitzie Fiedler

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Subject: RE: Milano PUD Zoning Map Amendment - Motion to Strike

Kelly:

I am replying to Mr. Lobeck's email only because he copied the Mayor and City Council members in his reply.

I disagree with almost everything Mr. Lobeck states, and find his arguments to be essentially meritless.

As you know, my email sending the Motion to the City was only sent to you, Kelly Michaels and Mr. Lobeck – and not anyone on Council - as copying the elected officials with the Motion in advance of the City Council meeting would be improper. Moreover, as tempting as it may be to send the Mayor and Council members an attached copy of the Motion to Strike (so they would know what Mr. Lobeck is talking about), I will not do so.

The fact that Mr. Lobeck copied the Mayor and City Council members shows clearly that he recognizes the meritless of his arguments and his email is simply an attempt to poison the minds of the Mayor and City Council in advance of their hearing of (and seeing for the first time) the Motion tomorrow.

Regards,

Jeff Boone

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From: Dan Lobeck <dlobeck@lobeckhanson.com>

Sent: Monday, May 22, 2023 9:15 PM

To: Kelly Fernandez <kfernandez@flgovlaw.com>

Cc: Annette Boone <Annette.Boone@boone-law.com>; Jeffery A. Boone <JBoone@boone-law.com>; Jim Collins <JCollins@boone-law.com>; Jackson Boone <Jackson.Boone@boone-law.com>; Lee Fosco <LFosco@boone-law.com>; Nick Pachota <npachota@venicefl.gov>; Jim Boldt <jboldt@venicefl.gov>; Mitzie Fiedler <mfiedler@venicefl.gov>; Rachel Frank <rfrank@venicefl.gov>; Rick Howard <rhoward@venicefl.gov>; Dick Longo <rlongo@venicefl.gov>; Helen Moore <hmoore@venicefl.gov>; Mercedes Barcia <mbarcia@venicefl.gov>; Roger Clark <RClark@venicefl.gov>; Mercedes Tech <tech.mercedes@gmail.com>

Subject: Milano PUD Zoning Map Amendment - Motion to Strike

Importance: High

Kelly:

This is in response to the attached Motion to Strike filed by the Boone firm at 5 pm today. I ask that this email be added to the record.

First, as a matter of procedure: The motion cannot be entertained and I request that you instruct the Mayor that it is out of order. There is no room for such motion practice in the City Council's Rules of Procedure for Quasi-Judicial Hearings, nor is there any valid basis for it to be filed or considered in any event. Was it to be allowed to be argued, the applicant's counsel would be given extra time to try to discredit part of the opponents' case.

What the applicant's attorneys seek is to prevent my introduction of sworn testimony by the applicant's principal before the Planning Commission on the basis of my Memo quoting portions of it, arguing that because the Memo quotations are incomplete, the testimony is mischaracterized and is as such spoiled from consideration.

That is nonsense, in part because I attached with that Memo a transcript of the complete testimony at issue, including everything quoted by the applicant's attorneys as being relevant and needed for context.

Second, as to substance. There has been no mischaracterization. The quotes are what they are. It is true that Mr. Neal contradicted himself a couple of times after Jeff Boone alerted him with a speaking objection that his testimony was proving to be damaging. Nevertheless, the quotations in my Memo are accurate and not misleading. Certainly, the transcript of the entire cross-examination, including the portions applicant's counsel now seeks to highlight, is not misleading, and deserves

consideration for whatever weight is to be given to it.

Further, the accuracy of the quoted testimony of Mr. Neal to the Planning Commission is underscored by the same arguments Mr. Neal continues to make to the public, that his proposed Commercial Center is intended to serve a very wide surrounding area and not (as explicitly required by the Land Development Code being applied) instead to serve the Milano PUD.

Please see for example slides 9, 16 and (in particular) 17 in the Presentation in support of the PUD amendment which Mr. Neal has been using from the beginning and still has posted on the Neal Communities website: <https://secureservercdn.net/166.62.111.210/70j.640.myftpupload.com/wp-content/uploads/2022/08/final-formal-presentation-Publix-Milano-Presentation.pdf>

I have entered a pdf of that Presentation into the record by email to the Records Manager/Deputy City Clerk today. The map on page 17 is the same map as I used for reference in the Planning Commission cross-examination.

I appreciate the focus on this issue, as it is so important. I invite a full reading of Mr. Neal's testimony on this under my cross-examination, including what I left out and what the Boone firm seeks to add.

The violation of Section 86-130(r) of the Land Development Code could not be more clear.

It's understandable why applicant's counsel now wants the City Council to disregard what the applicant has been saying against its interest to help prove that violation.

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From: Annette Boone <Annette.Boone@boone-law.com>

Sent: Monday, May 22, 2023 5:00 PM

To: Kelly Fernandez <kfernandez@flgovlaw.com>; Dan Lobeck <dlobeck@lobeckhanson.com>

Cc: Jeffery A. Boone <JBoone@boone-law.com>; Jim Collins <JCollins@boone-law.com>; Jackson Boone <Jackson.Boone@boone-law.com>; Lee Fosco <LFosco@boone-law.com>

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Kelly, Dan:

Please find attached the Applicant's Motion to Strike (with corresponding Exhibits "A" and "B" thereto), which we intend to bring before the City Council at tomorrow's public hearing.

Kind regards,

Annie Boone

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