



MEMORANDUM TO VENICE CITY COUNCIL

THROUGH CHARTER OFFICER: Edward Lavallee, City Manager

FROM: Kathleen Weeden, City Engineer

Roger Clark, Planning and Zoning Director

DEPARTMENT: Engineering and Planning and Zoning

DATE: November 14, 2023

MEETING DATE: November 28, 2023

E-SIGN:

Kathleen Weeden

Roger Clark

Edward Lavallee
Edward Lavallee (Nov 15, 2023 17:45 EST)

SUBJECT / TOPIC: Cielo Final Plat in the Milano Planned Unit Development (PUD)

SUPPORTS STRATEGIC PLAN: Goal Six: Preserve the Venice Quality of Life through Proper Planning

Background:

In June of 2022, Border and Jacaranda Holdings, LLC, through agent Jeffery Boone, Esq. of the Boone Law firm submitted an application to amend the Milano PUD binding master plan (*Figure 1*) to allow for commercial land use on a 10.42-acre parcel at the intersection of Laurel Road and Jacaranda Blvd. (*Figure 2*) After more than thirty hours of public hearing, the City Council voted to approve Petition No. 22-38RZ with stipulations relating to maximum square footage of commercial buildings and buffering. After the approval, an appeal was filed with the Circuit Court of the Twelfth Judicial Circuit by parties alleged to be adversely affected by the amendment. The appeal remains pending.

Figure 1 Portion of the Milano PUD Binding Master Plan

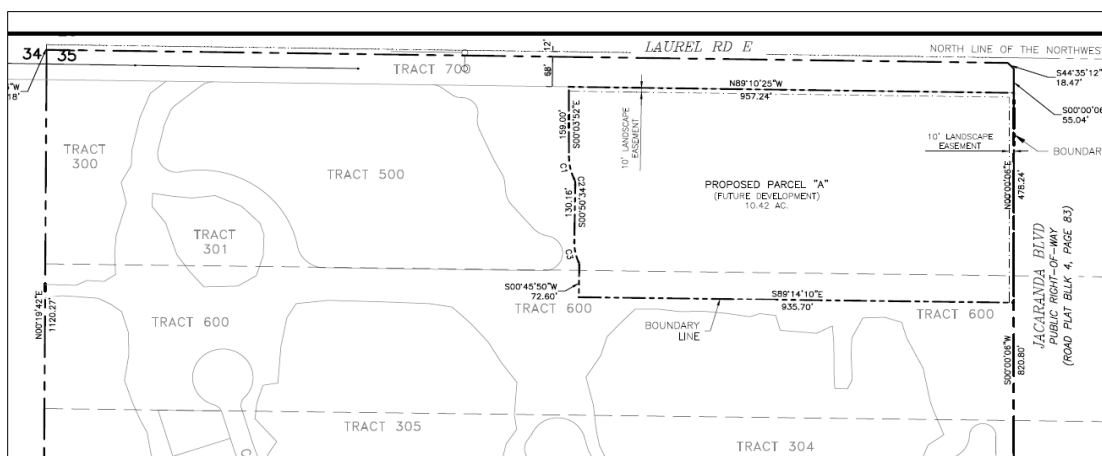


Figure 2 Proposed Milano PUD Amendment



Concurrent with the submittal for the PUD amendment, the applicant submitted application for a Preliminary Plat amendment to establish the 10.42-acre parcel (Figure 3). The Preliminary Plat amendment was approved by City Council on October 10, 2023. The applicant now desires to move the final replat forward to City Council at the November 28th meeting.

Figure 3 Cielo Preliminary Plat



Open Space Dedication

PUD zoning requires that land in a PUD designated as open space be restricted for no less than 99 years through a recorded legal instrument. The City's position until approximately early 2021 had been that this dedication should take place at the time the final plat of the last phase of a PUD was approved. This was the policy when the Cielo final plat was approved on November 12, 2019, and subsequently recorded in the County public records. The City's new (and current) policy became that any open space is to be dedicated as part of each final plat approval for a PUD; thereby, not waiting for a "final, final plat." When the final plat for Fiore was approved, a separate residential area of the

Milano PUD, the City's new policy applied. As a result, open space contained within Fiore is dedicated on the recorded final plat.

Regarding pre-2021 Milano PUD final plats and their open space dedication, an agreement between Neal Communities of Southwest Florida, LLC and the City of Venice was executed on October 25, 2016, and included the following clause:

Open Space Restriction. The Owner shall deliver to the City a fully executed Restrictive Covenant in a form satisfactory to the City Attorney that meets the Minimum Requirements of the *Venice Land Development Regulations* and sufficiently provides for the restriction of open space on all then existing, approved and recorded plats, prior to or at the time of final plat approval for the last plat, platting substantially all of the remaining residential property, filed in connection with the land development project identified as VICA PUD (a/k/a Villages of Milano), Ordinance No. 2014-16, as amended from time to time.

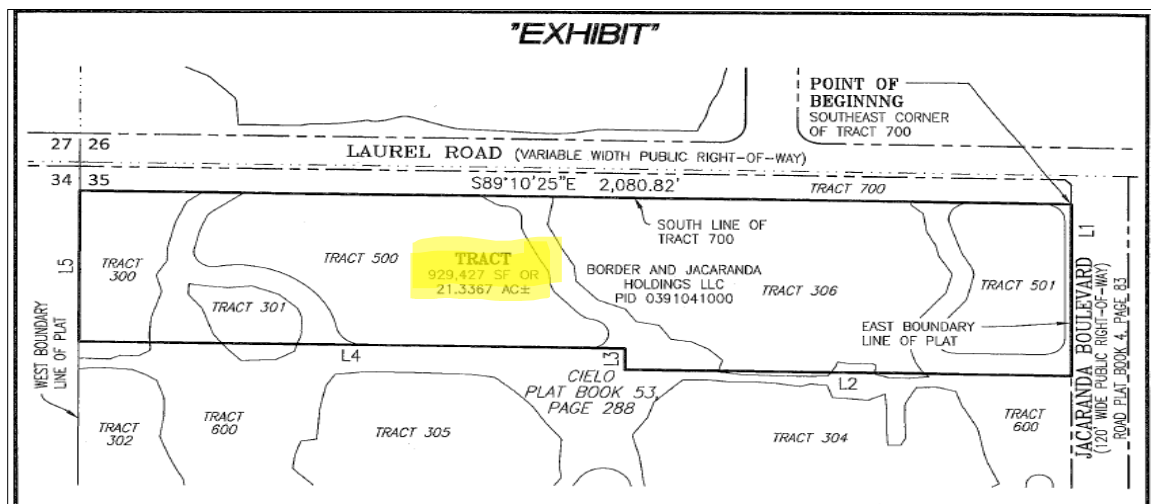
Since the Milano PUD Binding Master Plan depicted an area of residential lots (adjacent to Laurel Road) that had not yet been platted, the trigger to complete dedication of open space in Cielo and other previously platted parts of the Milano PUD had not occurred. Therefore, the final recording of the dedication of open space for the entire PUD has not yet taken place.

Current Proposal

Although there is a pending appeal regarding the approved Milano PUD Amendment to establish the 10.42-acre commercial parcel, the City acknowledges that absent a stay imposed by the court the amendment is in effect and can be relied upon for further approvals such as the final replat. As stated above, the applicant has requested to move the final replat of the Cielo portion of the Milano PUD forward for City Council consideration. This replat could be "the final plat approval for the last plat, platting substantially all of the remaining residential property." Therefore, the City's position is that dedication of all open space in the PUD not previously dedicated is required at this time.

In order to move the replat forward, the applicant has provided the City with written dedications for recording that would result in over 50% of the Milano PUD being dedicated as open space. The applicant has stated that it is not dedicating any land north of the FPL easement as open space because the open space requirement has been met without it. It is worth noting that the 10.42-acre parcel presently on appeal was shown as open space prior to the PUD amendment being approved.

Figure 4 Proposed 21.34 Acre Tract




It is also worth noting that if the court rules in the Appellants' favor, the approved preliminary plat amendment that established the 10.42-acre parcel is rendered null and void by virtue of a stipulation approved by Council. This could also be deemed to nullify any associated approved final replat as it would then not be consistent with an approved preliminary plat. All final plats are recorded and it is

not clear how a recorded final plat that is subsequently deemed nullified could be rectified or addressed in the public records.

Timeline

- August 22, 2017 – Milano PUD approved.
- December 11, 2018 – Cielo Preliminary Plat approved.
- November 12, 2019 – Cielo Final Plat approved by City Council.
- June 20, 2022 – The following applications are submitted:
 - Petition 22-38RZ Milano PUD Amendment
 - Petition 22-39PP Milano Preliminary Plat Amendment
 - Petition 22-40SP Village at Laurel and Jacaranda Site and Development Plan.
- March 21, 2023 – Planning Commission recommends denial of Petition No. 22-38RZ.
- July 11, 2023 – Petition 22-38RZ approved by City Council to allow for a 10.42-acre portion of the Milano PUD to be changed from open space to commercial.
- July 25, 2023 – Cielo Replat is submitted to Engineering to establish the 10.42-acre parcel.
- August 10, 2023 – Writ of Certiorari submitted to the Circuit Court of the Twelfth Judicial Circuit by the North Venice Neighborhood Alliance and others appealing the decision of City Council. The Court's decision is pending.
- September 5, 2023 – Zoning Determination requiring a Cielo Preliminary Plat Amendment upheld by Planning commission.
- September 5, 2023 – Preliminary Plat Amendment Petition No. 22-39PP recommended for approval by Planning Commission to City Council.
- October 10, 2023 – Preliminary Plat Amendment Petition No. 22-39PP approved by City Council.


Kelly Fernandez (Nov 15, 2023 08:11 EST)
Kelly Fernandez, City Attorney

| Yes | N/A | |
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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Document(s) Reviewed for ADA compliance (required if for agenda posting) |
| <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 |
| | | Funds Availability (account number): |












Final Cielo Replat Memo

Final Audit Report

2023-11-15

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