

**M. MARSHALL HAPPER III  
117 MARTELLAGO DRIVE  
NORTH VENICE, FL 34275**

July 5, 2023

Re: Petition 22-38RZ 2<sup>nd</sup> Reading, July 11, 2023

Via Email

Dear Mayor Pachota and members of the Venice City Council:

As a resident of the City of Venice since 2005, and as Vice President of the Venetian Golf & River Club Property Owners Association, Inc., (Venetian POA), an Affected Party to Petition 2022-38RZ, I am writing to provide you advance notice for your consideration the requests I plan to make on July 11 at the hearing on the 2<sup>nd</sup> Reading for the adoption of an Ordinance.

I understand that a 2<sup>nd</sup> Reading is to provide some amount of extra time for reflection before a final vote on an Ordinance is conducted to try to make sure that a mistake is not being made. While, I would welcome a change of the position of the Council to deny the Petition, I am assuming that will not happen, so I am attaching herewith a proposed draft Ordinance for approval of the Petition, which I plan to present to you on July 11 and on which I respectfully hope you will consider. I am providing it to you in advance today to give you an opportunity to hopefully read and consider it before next Tuesday.

Your approval of the Petition is the approval of a classic “Bait & Switch” whereby the Developer asked for and obtained Binding Plan approval in 2017 for a 500-acre residential only Milano PUD and after selling 100s and 100s of homes is now 6 years later obtaining approval for his unilateral change of the scheme of development to convert 10.42 acres of open space wetlands into a Commercial shopping center. In monetary terms, you are permitting a wealthy developer to unilaterally convert virtually valueless open space wetlands promised as subdivision Commons into a multi-million dollar Commercial shopping center. That is, to say the least, very controversial.

You were the Judges and Jury during the 4 days of Quasi-Judicial Hearings on May 23-24 and June 15-16. When the Hearings were concluded on June 16, a motion was made to approve the Petition, and each of the 6 members present each announced how you intended to vote, after which you voted 5-1 to approve the Petition.

While we were certainly disappointed with your vote to approve the Petition, we were disappointed that there were no Juror type deliberations of the essential facts and that no Finding of Facts was made and announced. In addition, not one question was asked of the City Attorney with respect to the proper interpretation of the applicable laws and there were no Judge type Conclusions of Law made and announced. This left all of us with no understanding of how you reached your very important and controversial approval of the Petition.

On July 11, I will request that you issue Findings of Facts and Conclusions of Law as part of the final Ordinance to be adopted as shown in the attached draft Ordinance. I will go through each proposed Finding of Fact which I believe will be obvious to each of you. I will also go through each Conclusion of Law, which I believe you had to make to support your approval of the Petition and I will request that you ask for and receive advice from the City Attorney on each one of them. I hope you will agree that as a matter of due process and fairness to everyone concerned, including the overwhelming numbers of homeowners who opposed this Petition, that this should be done.

Finally, as mitigation for the impact the Commercial shopping center you are approving will have on the surrounding residential developments, I will request that you consider and include the Stipulations suggested in the draft Ordinance which I will go through with you on July 11.

Thanks for your consideration.

A handwritten signature in black ink that reads "M. Marshall Happer III". The signature is written in a cursive style with a prominent flourish at the end.

M. Marshall Happer III

Enclosures: Proposed Draft Ordinance and References

Cc: Kelly M. Fernandez, City Attorney  
Jeff Boone, Attorney for Petitioner