

**ORDINANCE NO. 2021-07**

**AN ORDINANCE AMENDING THE OFFICIAL ZONING ATLAS OF THE CITY OF VENICE, FLORIDA, PURSUANT TO ZONING MAP AMENDMENT PETITION NO. 17-16RZ, RELATING TO PROPERTY IN THE CITY OF VENICE LOCATED AT THE SOUTHEAST CORNER OF N. AUBURN ROAD AND BORDER ROAD OWNED BY SSD LAND HOLDINGS, LLC, REZONING THE PROPERTY FROM SARASOTA COUNTY OPEN USE ESTATE (OUE) TO CITY OF VENICE PLANNED UNIT DEVELOPMENT (PUD); PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, Zoning Map Amendment Petition No. 17-16RZ (“Petition”) has been filed with the City of Venice to change the official City of Venice Zoning Map designation for the property described in Section 3, below, from Sarasota County Open Use Estate (OUE) to City of Venice Planned Unit Development (PUD); and

**WHEREAS**, the subject property has been found to be located within the corporate limits of the City of Venice; and

**WHEREAS**, the City of Venice Planning Commission has been designated as the local planning agency in accordance with F.S. 163.3174; and

**WHEREAS**, the Planning Commission held a public hearing on October 16, 2018, for which public notice was provided regarding the petition and, based upon the evidence received at the public hearing, the staff report and discussion by the Planning Commission, voted to recommend approval of Petition No. 17-16RZ; and

**WHEREAS**, City Council held a public hearing on November 28, 2018 regarding the petition and, based upon the evidence and public comment received at the public hearing, voted to deny approval of Petition No. 17-16RZ; and

**WHEREAS**, on December 21, 2018, the applicant filed a Petition for Relief Pursuant to Section 70.51, Fla. Stat.; and

**WHEREAS**, a mediation was held on February 25, 2019 and May 22, 2019 which resulted in proposed terms of settlement and an amended Petition No. 17-16RZ; and

**WHEREAS**, City Council held a public hearing on the amended Petition, all in accordance with the requirements of the city’s code of ordinances, and has considered the information received at said public hearing; and

**WHEREAS**, City Council held public hearings on August 28, 2019, September 24, 2019 and October 22, 2019 regarding the petition and, based upon the evidence and public comment received at the public hearings, voted to deny approval of amended Petition No. 17-16RZ; and

**WHEREAS**, on November 26, 2019, the applicant filed a Petition for Relief Pursuant to Section 70.51, Fla. Stat.; and

**WHEREAS**, a mediation was held on March 11, 2020 which resulted in an impasse; and

**WHEREAS**, on June 22, 2020 a proceeding was held before the Special Magistrate to determine whether the denial of the amended Petition on October 22, 2019 was unreasonable or unfairly burdened the real property; and

**WHEREAS**, on January 12, 2021, the Special Magistrate issued a Written Recommendation which found that the denial of the amended Petition was unreasonable and unfairly burdened the real property and recommends that Petition No. 17-16RZ, as further amended and modified by the applicant during the course of the proceeding before the Special Magistrate, be approved; and

**WHEREAS**, City Council held a public hearing on the amended Petition, all in accordance with the requirements of the city's code of ordinances, and has considered the information received at said public hearing; and

**WHEREAS**, City Council finds that Zoning Map Amendment Petition No. 17-16RZ, as amended, is in compliance with and meets the requirements of the city's Land Development Regulations and Comprehensive Plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA:**

**SECTION 1.** The Whereas clauses above are ratified and confirmed as true and correct.

**SECTION 2.** The City Council finds as follows:

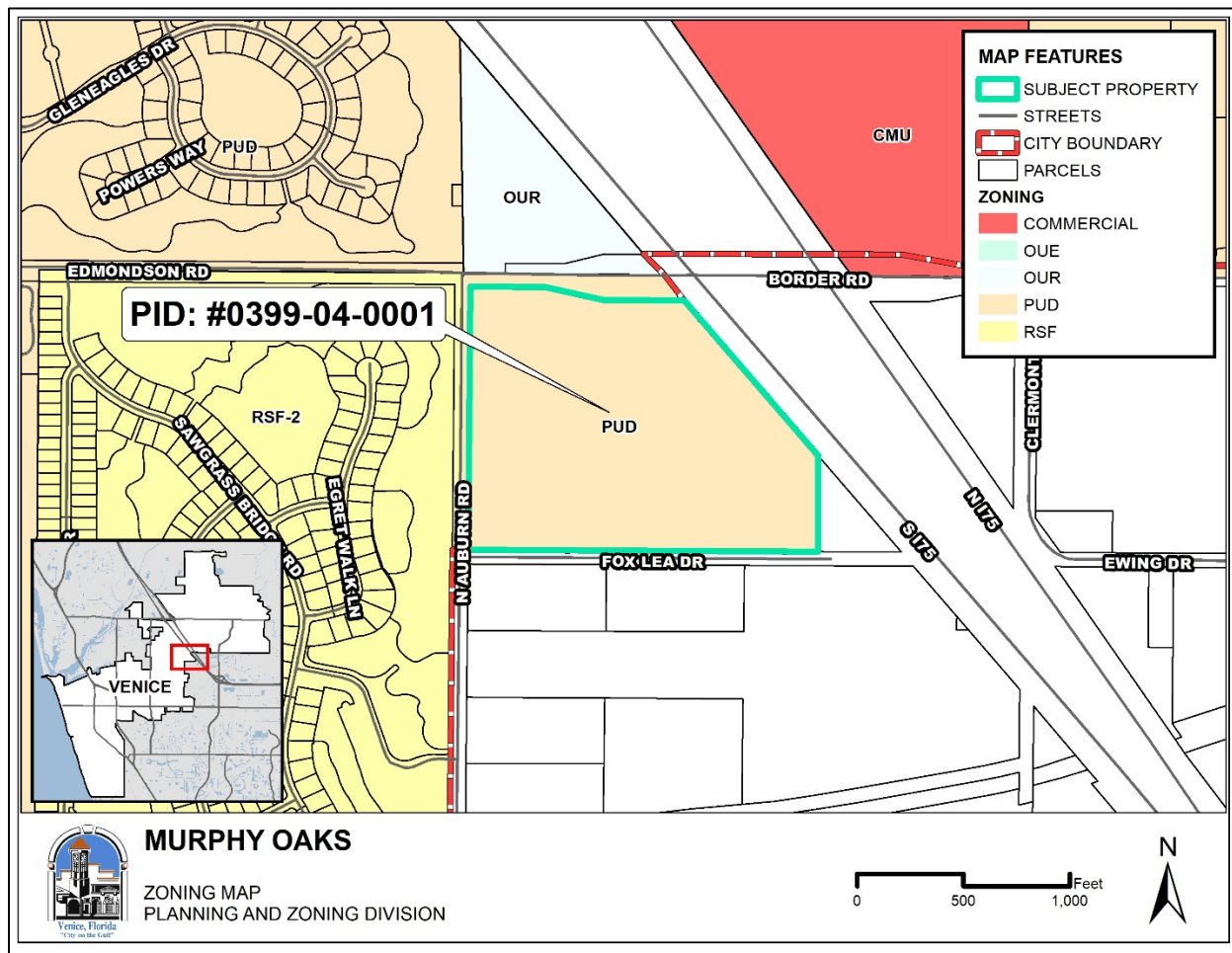
A. The Council has held a public hearing on the Petition, as amended, and has considered the evidence and testimony received at said public hearing.

B. The proposed rezoning of the property described herein is in accordance with and meets the requirements of the Land Development Regulations and is consistent with the City of Venice Comprehensive Plan.

**SECTION 3.** The "Binding Master Plan for Murphy Oaks" consisting of 13 pages dated October 20, 2020, and all information and materials formally submitted with the application, as revised, together with the associated Murphy Oaks Developer's Agreement, establish the official record for the rezone petition related to the property described below and are hereby approved and adopted by reference subject to the stipulations contained in Exhibit "A" attached hereto. The City Council also hereby approves the four (4) requested Code modifications, as referenced in the Binding Master Plan for Murphy Oaks. To the extent there is any discrepancy between the documents, the most restrictive provision shall apply. All of the foregoing, with the conditions, safeguards, and stipulations contained therein, shall become the standard of development for the Murphy Oaks planned unit development.

**Property Description:**

As depicted on the location and zoning maps shown below consisting of 39.6± acres and as further described:



ALL THAT PART OF TRACTS 226, 227, 228, 230, 231 AND 232, NORTH VENICE FARMS, AS RECORDED IN PLAT BOOK, PAGE 203, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA, LYING AND BEING IN THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 39 SOUTH, RANGE 19 EAST, SARASOTA COUNTY, FLORIDA AND BEING MORE PRACTICALLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SECTION 3, TOWNSHIP 39 SOUTH, RANGE 19 EAST, SARASOTA COUNTY, FLORIDA; THENCE SOUTH 00 DEGREES 22 MINUTES 05 SECONDS WEST, ALONG THE WEST LINE OF SAID SECTION 3, A DISTANCE OF 60.00 FEET; THENCE SOUTH 89 DEGREES 53 MINUTES 34 SECONDS EAST, A DISTANCE 33.00 FEET TO THE INTERSECTION OF THE EASTERLY RIGHT OF WAY LINE OF NORTH AUBAN ROAD AND THE SOUTHERLY RIGHT OF WAY LINE OF BORDER ROAD, AS NOW ESTABLISHED, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE ALONG THE SAID SOUTHERLY RIGHT OF WAY LINE OF BORDER ROAD THE FOLLOWING THREE COURSES, SOUTH 89 DEGREES 53 MINUTE S 34 SECONDS EAST, A DISTANCE OF 348.70 FEET; THENCE SOUTH 77 DEGREES 47 MINUTES 53 SECONDS EAST, A DISTANCE OF

286.36 FEET; THENCE SOUTH 89 DEGREES 53 MINUTES 34 SECONDS EAST, A DISTANCE OF 383.11 FEET TO THE WESTERLY RIGHT OF WAY LINE OF INTERSTATE 75, ALSO KNOWN AS STATE ROAD 93, AS NOW ESTABLISHED; THENCE SOUTH 40 DEGREES 53 MINUTES 29 SECONDS EAST, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 952.06 FEET TO THE NORTHERLY CORNER OF OFFICIAL RECORDS INSTRUMENT NUMBER 2008036086, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA; THENCE SOUTH 00 DEGREES 09 MINUTES 58 SECONDS EAST, ALONG THE WEST LINE OF SAID OFFICIAL RECORDS INSTRUMENT NUMBER 2008036086, A DISTANCE OF 453.46 FEET TO THE SOUTH LINE OF SAID TRACTS 230, 231 AND 232; THENCE NORTH 89 DEGREES 51 MINUTES 57 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 1644.18 FEET TO THE SOUTHWEST CORNER OF SAID TRACT 230; THENCE NORTH 00 DEGREES 22 MINUTES 05 SECONDS EAST, ALONG THE WEST LINE OF TRACTS 230 AND 226, A DISTANCE OF 1231.24 FEET TO THE POINT OF BEGINNING. CONTAINING 39.63 ACRES, MORE OR LESS.

Any discrepancy between the legal description and the map shall resolve in favor of the map.

**SECTION 4.** All Ordinances or parts of Ordinances in conflict herewith shall be and the same are hereby repealed to the extent of the conflict.

**SECTION 5.** If any part, section, subsection, or other portion of this ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, such part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this ordinance, and all applications thereof not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

**SECTION 6.** **Effective date.** This ordinance shall take effect immediately upon its approval and adoption as provided by law.

**PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, THIS 23RD DAY OF FEBRUARY 2021.**

First Reading: February 9, 2021

Final Reading: February 23, 2021

Adoption: February 23, 2021

---

Ron Feinsod, Mayor

**Attest:**

---

Lori Stelzer, MMC, City Clerk

I, Lori Stelzer, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of an Ordinance duly adopted by the City of Venice Council, a meeting thereof duly convened and held on the 23rd day of February 2021 a quorum being present.

**WITNESS** my hand and the official seal of said City this 23rd day of February 2021.

---

Lori Stelzer, MMC, City Clerk

Approved as to form:

---

Kelly Fernandez, City Attorney

## **Exhibit A to Ordinance 2021-07**

1. Development Consistent with Approved Binding Master Plan. All development of the Property shall be consistent with the Binding Master Plan for Murphy Oaks dated October 10, 2020, (including the Landscape Plan and other Sheets) (the “Binding Master Plan”) approved with this ordinance, including all conditions and notes set forth on the Binding Master Plan.

2. Submission of County Right-of-Way Permits and Construction Drawings. Developer will submit plans for the following transportation improvements (as depicted on the Binding Master Plan) concurrent with preliminary plat and construction plan approval, and shall construct the improvements, subject to approval from Sarasota County for improvements in County right-of-way, prior to the issuance of the first certificate of occupancy:

- a. Eastbound to Southbound right turn lane from Edmondson Road to Auburn Road. If construction of the eastbound to southbound right hand turn lane impacts the existing multi-use path on the south side of Edmondson Road, Developer will restore the multi-use path to existing conditions
- b. Right and left hand turn lanes from Auburn to Edmonson; Developer will incorporate on-road bicycle lane(s).
- c. The left hand turn lane from Auburn into the project. Installation of the left hand turn lane shall not impede on-road bicycle lanes or sidewalks.

3. Developer’s Agreement. The Developer shall comply with all terms of the Developer’s Agreement offered by the Developer concurrent with the rezoning, and shall demonstrate that any required off-site improvements and recorded documents have been completed prior or concurrent with to the approval of the final plat.

4. Amenity Area. The Developer shall commence construction of the amenity area between Lot 54 and Lot 55 within twelve (12) months after issuance of the first certificate of occupancy for the first residence, or upon the closing on twenty-five percent (25%) of lots to the end users, whichever shall first occur.

5. Notices to Buyers and Special Covenants. Developer will submit deed restrictions for the Property to the City for review prior to the application for final plat approval, as required by Section 86-232(4) of the Land Development Code. The deed restrictions shall include:

- a. A Notice of Proximity for I-75, Fox Lea Farm and the Fox Lea Farm Operations (which also will be recorded in the public records separately), as set forth in Exhibit “B” to the Developer’s Agreement. The deed restrictions will require every purchaser, as well as all renters and/or sublessors of every purchaser, to execute an acknowledgement of the Notice of Proximity, and copies of the acknowledgements will be maintained by the homeowners’ association and provided to Fox Lea Farm and the City upon request.
- b. The following restrictions to protect Fox Lea Farm:
  - i. The use of fireworks, as defined in Florida Statutes, are prohibited.
  - ii. The launching or operation of drones or radio-controlled aircraft from the Property which fly over Fox Lea Farm is prohibited, unless permission is received in writing from Fox Lea Farm.

- iii. The burning of trash or yard waste, and other outdoor burning such as bonfires, is prohibited, but this prohibition shall not apply to outdoor barbeques for cooking, outdoor propane heaters, or small fire pits/fire tables.

6. Enforcement. The City, or any person, including but not limited to a business entity, who is aggrieved or adversely affected by, or who suffers personal or bodily injury, property or business damages from a violation of the stipulations set forth in this ordinance, including the conditions imposed by the Binding Master Plan, shall have a cause of action for damages resulting from such violation and for equitable relief, and the court shall have the duty to forthwith issue such temporary and permanent injunctions as may be necessary to halt or prevent the violation, notwithstanding the availability of monetary relief. No bond shall be required for any party seeking temporary or permanent injunctive relief.