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July 18, 2023

VIA ELECTRONIC AND HAND DELIVERY

Mr. Roger Clark, AICP
Planning Manager
City of Venice
401 West Venice Ave
Venice, Florida 34285

Re: Cielo Replat – Zoning Determination Letter

Roger,

As you are aware, we represent the property owner and developer of the Cielo subdivision (the "Owner"), which is part of the Milano PUD. As you are also aware, the Milano PUD Binding Master Plan (the "BMP") was amended to allow for commercial use on the approximately 10.42-acre parcel in the northeast corner of the Cielo subdivision.

The Cielo subdivision has a previously approved preliminary plat, as well as an approved and recorded final plat. In light of the BMP amendment and in furtherance of proceeding with commercial development within the approved portion of the BMP, the Owner is seeking to replat a portion of the Cielo plat consisting of the 10.42-acre commercial parcel in order to remove, by replat, unnecessary tract and use designations and reflect a commercial parcel unencumbered by use designations that are unnecessary as a matter of real property title law. A copy of the current plat recorded in Plat Book 53, Page 288 of the public records is attached. Sheets 4 and 5 illustrate the unnecessary tract and use designations that we now wish to remove, by replat. Also attached is a draft of the proposed replat which no longer includes such tract and use designations.

We have been advised by the City of Venice Staff that a preliminary plat application and approval is required in order to proceed with a replat of the identified portion of the current Cielo plat so as to reflect the changes consistent with the amended BMP. We disagree that a preliminary plat application is required in this very narrow circumstance and believe this is not the appropriate process for the City's approval of the replat that does not provide for the subdivision of land.

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Instead, in the absence of an applicable City process, we believe that Ch. 177 of the Florida Statutes is the only and controlling authority on the matter of replatting in this instance.

Section 1.10 of the City's land development regulations ("LDRs") establishes the requirements and procedure for preliminary plats and final plats of subdivisions. Specifically, as stated in Section 1.10 A., this section of the LDRs applies to the scenarios under which property owners are seeking to subdivide land. Specifically, Section 1.10 A provide in pertinent part, the following:

***"Applicability.** A subdivision of land is the division of real property into more than two lots, parcels, tracts, tiers, blocks, sites, units or any other division of land, and/or the establishment of new streets and alleys, additions and re-subdivisions creating a recorded final plat; ..."*

Section 1.10 does not address and is silent to the process of replatting an existing final plat when no additional lots are created. Please note that the intended replat concerns a compact 10.42-acre parcel and does not request a subdivision of land, at all, let alone more than two lots. Rather, the proposed replat consolidates existing tracts into one area of land.

The policy that underlies Section 1.10 A and the quasi-judicial public hearing process associated with the preliminary plat process is not implicated in this narrow circumstance. As noted, there is no further subdivision of land and there is no "proposed subdivision layout" for which "the public [needs] an opportunity to comment". See Section 1.10.1 A.

In our instance, the Owner is not seeking to subdivide land per the City's LDRs. The Owner is simply seeking to replat a portion of the recorded Cielo plat for title-related purposes. The proposed replat does not seek to create any additional lots and is not, therefore, a subdivision that is subject to the regulatory restrictions identified in Section 1.10 A.

Because the City's LDRs does not provide for the process of replatting as it relates to our circumstances, the applicable requirements and process to which the Owner is subject is Ch. 177 of the Florida Statutes. Therefore, upon the Owner satisfying the minimum requirements as set forth under Ch. 177 of the Florida Statutes, the City should approve the proposed replat of the Cielo plat.


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We respectfully request your favorable determination and confirmation of the above-stated requirements and process for the City's approval of the Owner's proposed replat.

If you have any questions or need any additional information, please do not hesitate to contact us.

Kind regards.

Very truly yours,


for Jeffery A. Boone

Enclosure

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