

DECEMBER 15, 2021

Public Notice

A virtual public workshop will be held to discuss proposed amendments to the Milano PUD and GCCF PUD located between Laurel Road and Border Road, North Venice, FL, 34275. This is not a public hearing. The purpose of the workshop is to inform the neighboring residents of the nature of the proposal, to solicit suggestions and comments, and discuss the proposed plan.

The virtual workshop will be held on Thursday, January 6, 2022 at 5:00 PM. You can attend the meeting by following the below instructions.

Join Zoom Meeting

Workshop Summary: January 6, 2022

2 matters:

1. Designation of an 11-acre parcel within the Milano PUD for commercial uses
2. removal of a strip of open space from the western edge of the Milano PUD and the addition of the that strip of open space to the eastern edge of the GCCF PUD.

26 questions and answers: none of them addressed the removal of open space.



From 21 mins to 105 mins = 210 or approx. 40% participation

From 1 mins to 7 mins = 302 or approx. 57% participation

Moderator online for 112 minutes

Conclusion: The land transfer requires a workshop

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

July 3, 2022

To the Honorable Members of the Venice Planning Commission

Delivered as an attachment via email

Re: Objections to Petitions 22-06RZ and 22-07RZ

Dear Members of the Planning Commission:

I have been a resident of the Venetian Golf and River Club since 2005. The Venetian is part of the Venetian PUD approved in 2002 by the City of Venice with over 60% dedicated Open Space. The dedication of Open Space was obligated upon approval of the Venetian PUD in 2002, notwithstanding the negligence of the City in failing to ever obtain an instrument formalizing the dedication of its Open Space. I previously served on the Architectural Review Board, Planning Commission and Charter Review Committee for the City of Venice. I apologize for not being present at your meeting on July 5, but I am currently in quarantine for Covid-19.

I am writing to object to Petitions 22-06RZ and 22-07 RZ which propose to move 24.106 acres (map attached) of the 291 acres of dedicated open space from the Milano PUD to the GCCF PUD. Attached for your background information is a copy of my Summary of the history of the Milano PUD and the GCCF PUD and their prior approvals.

The reasons for my objections are:

1. It is physically impossible to move the proposed 24.106 acres of Open Space from the Milano PUD to the GCCF PUD. The 24.106 acres is located behind and around lots in the Fiore and Aria subdivisions and cannot actually be used in the adjoining GCCF PUD property in any way. This 24.106 acres would not be permitted to be subdivided and conveyed.
2. The listed owners of the Milano PUD and the GCCF PUD are entirely different companies. The Petitioners for the Milano PUD are listed as "Neal Signature Homes LLC and Neal Communities of Southwest Florida, LLC." The Petitioners for the GCCF PUD are listed as Border Road Investments, LLC, Myarra Property Joint Venture, LLC, Woolridge Investment-Florida, LLC, FC, LLC and Vistera Associates, LLC.
3. The 24.106 acres is included on the recorded subdivision plats and is subject to the restrictive covenants of the Aria and Fiore subdivisions of part of the Milano PUD. Presumably the 24.106 acres is part of the "commons" for those subdivisions. The Homeowners Associations for those subdivisions are not parties to the Petitions.

4. The 2014, 2017 and 2020 Milano PUD rezonings covered 537 acres with 291 acres or 55.2% of Open Space and permitted up to 1350 residential units. The required minimum Open Space under the Venice Land Development Regulations was/is 50%, but Neal Communities offered, and the City accepted 55.2% and Neal Communities actually obtained some Modifications to Standards based on the Open Space included in the rezoning request.

5. At the time of the approval of these rezonings of the Milano PUD, Section 86-130 (j)(3) of the Land Development Regulations also said:

“Land in a PUD designated as open space will be restricted by appropriate legal instrument satisfactory to the city attorney as open space perpetually, or for a period of not less than 99 years. Such instrument shall be binding upon the developer, his successor and assigns and shall constitute a covenant running with the land, and be in recordable form.”

As a result, it should be concluded that upon the final approval of the Milano PUD with 291 acres of Open Space (55.2%) in 2014, 2017 and 2020, Neal Communities was obligated to restrict the “open space perpetually, or for a period of not less than 99 years” binding on it as the developer, and its successor and assigns as a covenant running with the land. Developers should not be able to offer Open Space, obtain PUD approvals and then renege on the Open Space offered and accepted by the City of Venice and its citizens.

No doubt the Developer of the Milano PUD will argue that there is no dedication of Open Space at the time of its PUD approval and that any dedication of Open Space is at its sole discretion and is not effective until a written instrument is filed with the City. Such an argument would undermine the provisions of 86-130(j)(3) and make them almost useless. The required “legal instrument” is only confirmation and formulization of the obligation to dedicate the offered and approved Open Space at the time of the approval of the PUD.

Consequently, I respectfully request that you deny Petitions 22-06RZ and 22-07RZ.

Thanks for your consideration.

Yours truly,

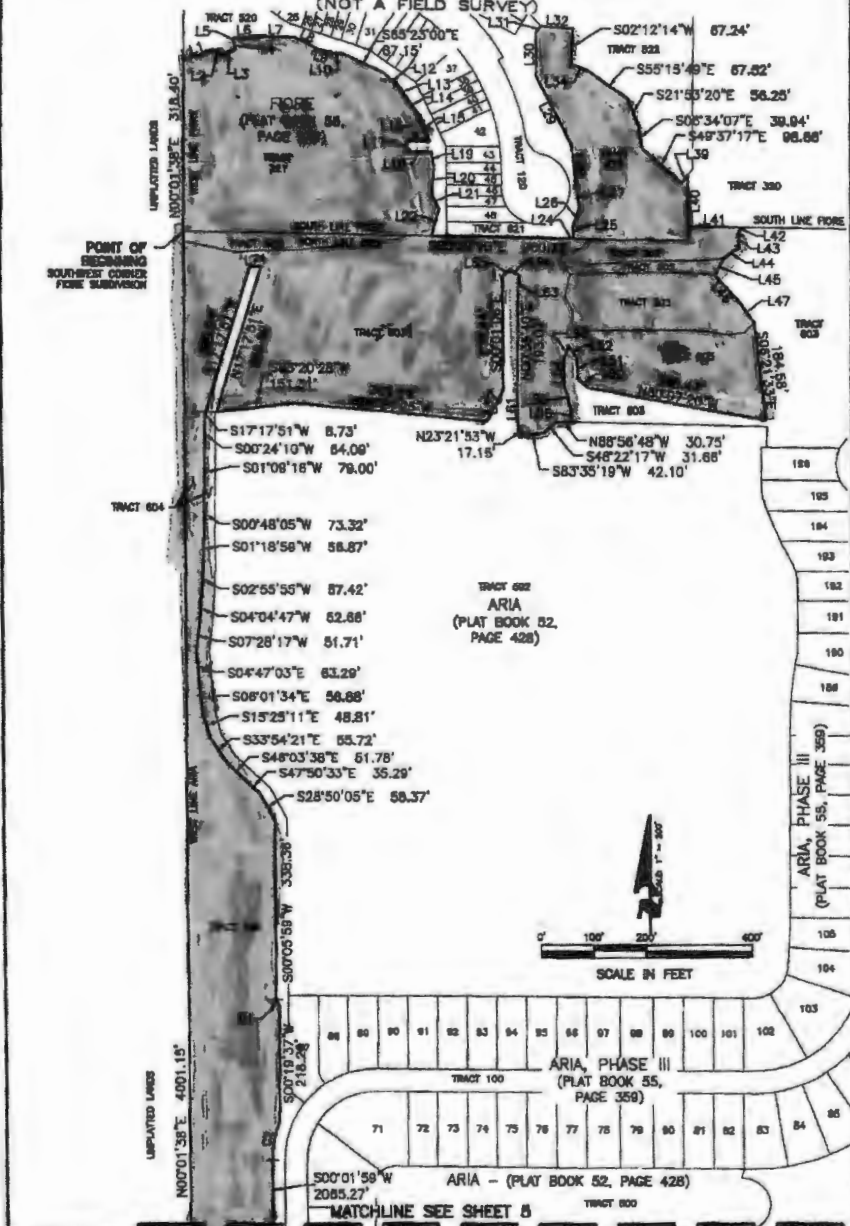


M. Marshall Happer III

Enclosures: 24.106 acres map and Summary

Cc: Roger Clark
Jeffrey Boone, Esquire

EXHIBIT "A" DESCRIPTION AND SKETCH
 A PORTION OF SECTION 34, TOWNSHIP 36 SOUTH,
 RANGE 19 EAST, SARASOTA COUNTY, FLORIDA



PREPARED FOR:
BORDER ROAD INVESTMENTS, LLC

M ENGINEERING, LLC.
 CONSULTING ENGINEERS
 & SURVEYORS, L.R. 4334
 6246 CONSUMERS COURT
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REVISIONS:

DRWN BY SCR	DATE: 2/3/2022	SHEET: 3 OF 8	DESCRIPTION: EXHIBIT "A" DESCRIPTION - SUBDIVISION	JOB: NEAL0018
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Summary

Original Zoning was RMF-1 for 100% Residential Uses

1. Originally, the Milano property was owned by J & J Homes and it was zoned in 2008 (08-3RZ) as Residential Multi-Family Zoning District (RMF-1) for 100% residential uses. J & J Homes went bankrupt and the property was acquired on foreclosure by CNLBank.

Jacaranda Connector Built in 2013

2. In 2013, the City of Venice used \$5 million in impact fees paid by the homeowners in the Venetian and Willow Chase to install the Jacaranda connector from Laurel Road to Border Road, providing for the first time a 2nd way in and out of the Venetian. It also provided a “free” road for the CNLBank property. In December of 2013, after completion of the Jacaranda connector, Neal Communities purchased the Milano property from the CNLBank.

Rezoning as Residential Milano PUD

3. In 2014, Neal Communities applied to have the Milano property rezoned to the residential PUD zoning category which required a minimum of 95% to 100% residential uses (Ordinance 2014-16). The request was for no commercial uses. The rezoning of the Milano PUD was updated in 2017 to add additional property for 100% residential uses stating “Commercial Uses None” (Ordinance 2017-25) and again in 2020 with no Commercial Uses (Ordinance 2020-40).

When the Milano PUD was further amended (Ordinance 2020-40), the Project Narrative said: “This proposed amendment to the current Milano PUD, consists of changes which are all located within the approximately 36 acre development pod at the northwest corner of the Milano PUD, and are limited to the addition of one access point along Laurel Road and the restriction of the existing access point to egress only, the addition of project signage at the new access point, the addition of lot standards for townhomes, a modification of driveway standards for town homes, the addition of an Amenity Area, the addition of alternative roadway sections to allow for on street parking, and minor modifications to conceptual stormwater pond configurations.”

Once again it was reiterated that the Density/Intensity was:

- “B. Density/ Intensity
- 1) Residential- Up to 1,350 residential units
 - 2) Commercial- None
 - 3) Open Space- Minimum 50%”

Thus, there was no change in the 291 acres (55.2%) of dedicated Open Space.

Section 86-130 Regulation

4. At the time of the Milano PUD rezoning requests and approvals in 2014, 2017 and 2020, Section 86-130 of the Venice Land Development Regulations permitted up to 5% of the Milano PUD for commercial uses:

“(8) Neighborhood commercial uses which are determined **at the time of approval** for the PUD to be compatible with the existing and future development of adjacent and nearby lands outside the PUD.”

“(r) *Commercial uses.* Commercial uses located in a PUD are intended to serve the needs of the PUD and not the general needs of the surrounding area. Areas designated for commercial activities normally shall not front on exterior or perimeter streets, but shall be centrally located within the project to serve the residents of the PUD.”

When it applied for rezoning of the Milano PUD in 2014 and updated it in 2017 and 2020, Neal Communities represented to the citizens of Venice and the Venice City Council that there would be no commercial uses in the Milano PUD. Thus, “**at the time of approval**” of the Milano PUD, approval was requested without any commercial uses, so none are permitted under the current zoning.

55.2% Dedicated Open Space

5. The 2017 Milano PUD rezoning update request for 537 acres provided for up to 1350 residential units with 291 acres or 55.2% of Open Space. The required minimum Open Space under the Venice Land Development Regulations was/is 50%, but Neal Communities offered, and the City accepted 55.2% and Neal Communities actually obtained some Modifications to Standards based on the Open Space included in the rezoning request. The 2020 rezoning update made no changes to the 100% residential uses and the 291 acres (55.2%) of Open Space. At the time of the approval of these rezonings of the Milano PUD, Section 86-130(j)(3) of the Land Development Regulations also said:

“**Land in a PUD designated as open space will be restricted by appropriate legal instrument** satisfactory to the city attorney as open space perpetually, or for a period of not less than 99 years. Such instrument shall be binding upon the developer, his successor and assigns and shall constitute a covenant running with the land, and be in recordable form.”

As a result, it should be concluded that upon the final approval of the Milano PUD with 291 acres of Open Space (55.2%) in 2017, Neal Communities was obligated to restrict the “open space perpetually, or for a period of not less than 99 years” binding on it as the developer, and its successor and assigns as a covenant running with the land.

4 Subdivisions: Milano, Aria, Cielo & Fiore

6. Neal Communities has developed the 100% residential Milano PUD into 4 different subdivisions with separate internal boundaries and separate restrictive covenants:

Milano Subdivision for 464 residential units on east side of the Jacaranda Extension.

Aria Subdivision for 182 residential units on the west side of Jacaranda Extension and south side of Border Road.

Cielo Subdivision for 71 residential units on the south side of Laurel Road and the west side of Jacaranda Extension. The Cielo Subdivision contains 89.0201 acres and is shown in Plat Book 52-288. [the area of the proposed shopping center is shown as Open Space.]

Fiore Subdivision for 126 residential units on the south side of Laurel Road.

GCCF PUD

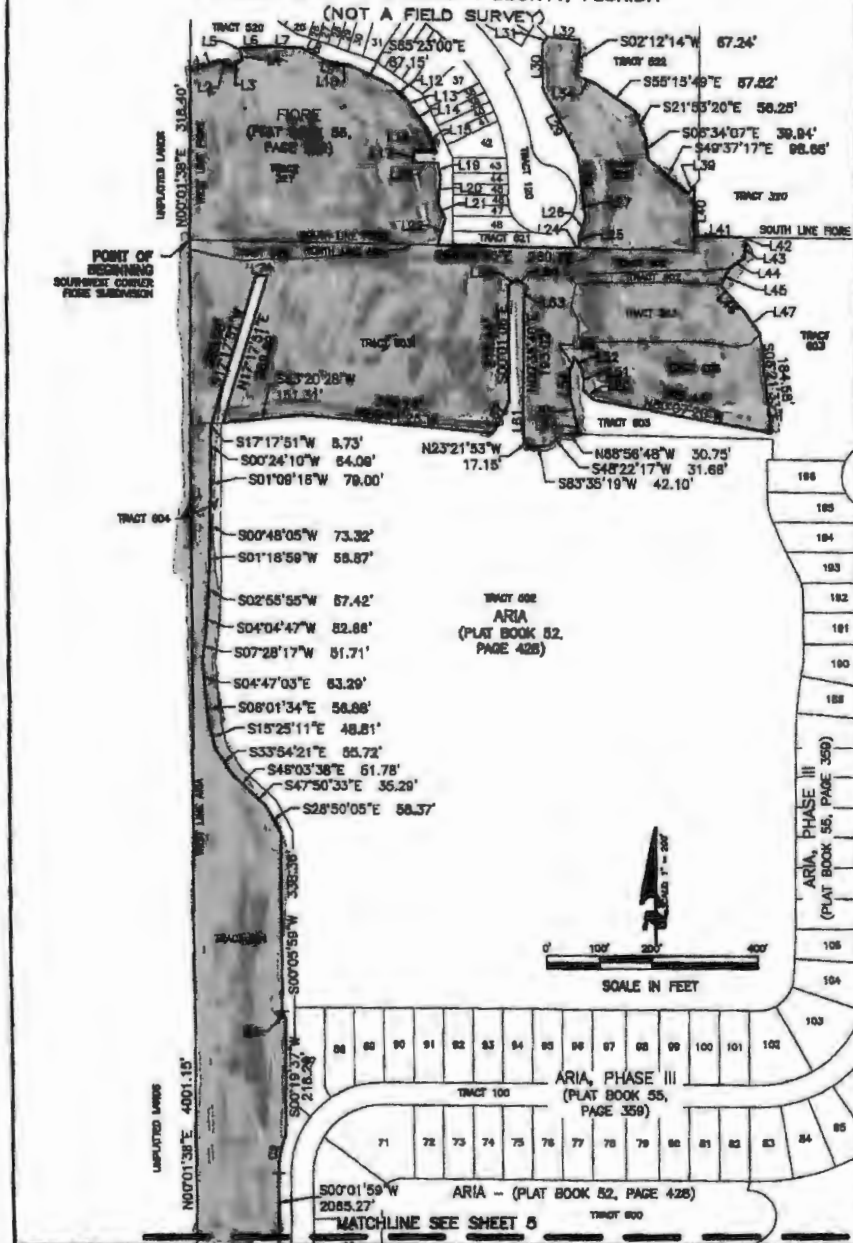
In 2019 (Ordinance 2019-19) the GCCF PUD was approved “for the development of a residential community consisting of detached single- family homes, paired villas, multi-family homes, assisted living facilities, amenity centers, and open space. A 25 +/- acre portion of the property was approved for House of Worship as permitted use, and Medical Office as a Special Exception Use, as an alternative to residential. The approved density is up to 1,300 residential units (approximately 4.3 dwelling units per acre.”

Rezone Petition 22-07RZ

7. On February 15, 2022, Jeff Boone as agent for Neal Signature Homes, LLC and Neal Communities of Southwest Florida, LLC filed Petition 22-07RZ seeking to amend the Milano PUD to transfer 24.106 acres of the committed and accepted 291 acres of Open Space from Milano PUD to the adjoining GCCF PUD. It appears that the 24.106 acres would come from the Fiore Subdivision and the Aria Subdivision and that it is property subject to the restrictive covenants for those subdivisions. This Petition ignores that the 55.2% Open Space in the Milano PUD was subject to “being restricted by appropriate legal instrument satisfactory to the city attorney as open space perpetually, or for a period of not less than 99 years.”

EXHIBIT "A" DESCRIPTION AND SKETCH

A PORTION OF SECTION 34, TOWNSHIP 38 SOUTH,
RANGE 18 EAST, SARASOTA COUNTY, FLORIDA



PREPARED FOR:
BORDER ROAD INVESTMENTS, LLC

REVISIONS:

DATE: 2/1/2022 SHEET: 3 OF 5 DRAWN: L.F.U. CHECKED: J.M.B. DATE: 02/01/2024

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Rezone Petition 22-06RZ

8. Simultaneously on February 15, 2022, Jeff Boone as agent for Border Road Investments, LLC, Myarra Property Joint Venture, LLC, Woolridge Investment-Florida, LLC, FC, LLC and Vistera Associates, LLC filed Petition 22-06RZ. The Project Narrative says: “This PUD Amendment proposes to add 24.1 acres of open space along the eastern boundary of the PUD relocated from the adjacent Milano PUD. In addition, minor revisions to the approved PUD concept plan are proposed with respect to the location of open space, stormwater ponds, internal roadways and the amenity area. No changes are proposed to the currently approved uses or development standards.”

Rezone Petition 22-38RZ, Petition 22-39 PP and 22-40P

9. On June 14, 2022, Jeff Boone as agent for Border and Jacaranda Holdings, LLC filed Rezone Petition 22-38RZ along with Petitions 22-39PP and 22-40P. The Project Narrative says: “This amendment to the Milano PUD proposes to re-designate a 10.42 acre parcel at the southwest corner of the Jacaranda Boulevard and Laurel Road, within the Milano PUD, from Open Space to Commercial, to add access points for the Commercial parcel and establish development standards for the Commercial parcel. The proposed Commercial designated parcel will allow for the provision of various retail and service uses to meet the needs of the neighborhood while reducing trip lengths and increasing multi-modal accessibility to such services for the neighbors. The PUD requirement for a minimum of 50% Open Space will continue to be maintained.”

The 10.42 acres of the dedicated 55.2% Open Space in the Milano PUD is part of the open space in the Cielo Subdivision, is shown on the Cielo plat and is subject to the Cielo restrictive covenants. This Petition ignores that the Open Space in the Milano PUD was subject to “being restricted by appropriate legal instrument satisfactory to the city attorney as open space perpetually, or for a period of not less than 99 years.” It also ignores that the 2014, 2017 and 2020 rezoning approvals provided for no commercial uses.

The Petition misrepresents the proposed shopping center when it says it: “will allow for the provision of various retail and service uses to meet the needs of the neighborhood while reducing trip lengths and increasing multi-modal accessibility to such services for the neighbors.” The proposal is for a regional shopping center to serve the proposed 7,000 homes on the east side of I-75 and it not remotely in compliance with Section 86-130 even if it had been proposed at “the time of approval” in 2014, 2017 or 2020. Furthermore, Section 86-130(r) restricted Commercial Uses in PUDs to uses “intended to serve the needs of the PUD and not the general needs of the surrounding area. Areas designated for commercial activities normally shall not front on exterior or perimeter streets, but shall be centrally located within the project to serve the residents of the PUD.”

These Petitions are under review by the Planning Department.