

From: [Barbara Hudspeth](#)
To: [City Council](#)
Cc: [Kelly Michaels](#); [Mercedes Barcia](#); [Toni Cone](#); [Amanda Hawkins-Brown](#)
Subject: Against the construction request for a shopping center t Jacaranda Blvd and Laurel Rd
Date: Monday, November 27, 2023 5:55:30 PM

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Dear Mayor Pachota and members of the City Council,

As stated in my email to your office, dated May 20, 2023, I am writing to reaffirm that I am against constructing a shopping center at the corner of Jacaranda Blvd and Laurel Road.

I am especially concerned since I have learned that Mr. Neal is now requesting to increase this property to approximately twice the size of his original request.

According to news items published in the local papers and speaking with my neighbors, it appears that your constituency is against having this request approved.

Kindly deny this request for a shopping center in North Venice.

Regards,
Barbara Hudspeth
101 Torcello Ct
North Venice

From: [Gary Scott](#)
To: [City Council](#)
Cc: [Kelly Michaels](#); [Mercedes Barcia](#); [Toni Cone](#); [Amanda Hawkins-Brown](#)
Subject: Cielo Final Plat Agenda Item
Date: Friday, November 24, 2023 5:19:39 AM

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Dear members of the City Council,

In the staff's memorandum to the City Council regarding the Cielo Final Plat it is stated that "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." This is yet another example of this applicant ignoring or twisting the clear language of the land development regulations to meet its needs. The applicant should not be permitted to do so.

There are three different regulations that are relevant to the dedication issue. Under 86-130(j)," 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." Some of the land north of the FPL easement is designated as open space on the final plat. It should be dedicated.

Under 86-231(c)(2)(n) the final plat of a subdivision is to include the dedication to public use of all the open spaces shown on that plat. In fact, the final plat (as opposed to the final, final plat, or the final, final, final plat) of Cielo was approved by the city on November 12, 2019. That fact is confirmed in the staff memorandum. By the clear language of this regulation, that final plat should have contained a dedication of all the open space shown on the plat. It did not. If it had, we would not be here today.

The third relevant regulation and the one which the applicant apparently relies upon to support its refusal to even today dedicate the open space of the Cielo Subdivision is 86-130(j)(1) which includes the statement that, "A minimum of 50% of the PUD shall be open space." The applicant tortures this regulation to mean that if at the time of the final plat there is more than 50% of the area designated as open space then the developer can arbitrarily decide not to dedicate some of that open space so long as the 50% minimum is met. Where in any of the regulations does it say that?

The above three regulations are not inconsistent with each other. They can be read and interpreted together so that each makes sense. Read together those regulations indicate that any open space designated on a final plat should be dedicated to public use on that final plat and there should be a legal instrument prepared that protects that open space for 99 years. At least 50% of the PUD's total area shown on the final plat must be designated as open space.

If there is more than 50% of the total area of the PUD designated as open space, that was by choice, the developer's choice. And all that open space is required under the LDR to be dedicated.

There is nothing in the regulations or in the practices of the city that supports what the applicant

proposes to do in this case. The applicant has ignored the dedication laws of the city when it comes to the open spaces of Cielo, a practice that was aided when the city, after being requested to do so by Neal Communities of Southwest Florida, LLC, entered into a contract with that developer that altered the dedication requirements as they are described in the LDR.

Regarding that October 25, 2016, agreement which is referenced in the staff memorandum, and which was authorized by the city council by way of the consent agenda with no discussion, that agreement changes the dedication requirements as they were to apply to one developer and one developer only, that being Neal Communities of Southwest Florida. Clearly the agreement was intended to change those requirements; otherwise, there would have been no need for the agreement.

Importantly, because the agreement modified the requirements for dedication as spelled out in the LDR, the agreement amounted to and was effectively legislation. The city council can amend an existing land development regulation but only after following certain specified procedures outlined in the ordinances of the city as well as in Florida statutes.

Please follow the law. Require the applicant to dedicate all the land that is designated on the final plat as open space, including that open space north of the FPL easement. Thank you for your consideration.

Gary Scott, for the North Venice Neighborhood Alliance

Sent from [Mail](#) for Windows

From: [Elana Carnes](#)
To: [City Council](#)
Cc: [Kelly Michaels](#); [Mercedes Barcia](#); [Toni Cone](#); [Amanda Hawkins-Brown](#)
Subject: Cielo Final Plat in the Milano Planned Unit Development (PUD)
Date: Monday, November 27, 2023 7:17:12 PM

Some people who received this message don't often get email from elanamcarnes@gmail.com. [Learn why this is important](#)

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November 27, 2023

City Planning Commission
401 W Venice Ave
Venice, FL 34285

Subject: Cielo Final Plat in the Milano Planned Unit Development (PUD)

Dear Mayor Pachota and members of the City Council:

My name is Elana Carnes. I have been a full-time resident of the Venetian Golf & River Club since 2019. As you know, the 21.33 acres mentioned in Petition 23-42FP is directly across Laurel Road from the Venetian. I am writing to request that you **deny or postpone your decision on this Petition allowing for further study and pending the outcome of the Writ of Certiorari.**

The homebuyers in Milano, Aria and Cielo purchased their homes with the understanding that the open spaces indicated on the November 12, 2019 Cielo Final Plat would be protected for 99 years, per the LDR regulations and the approval of the City Council.

However, it appears that it should not have been labeled FINAL because in June of 2022 the applicant filed three amendments with the goal of designating 10.42 acres of that open space to become a commercial shopping center.

Apparently, that wasn't FINAL either because in September of 2023 the applicant looked to further expand that commercial shopping center area, doubling it to 21.33 acres.

The applicant has ignored the dedication laws of the city when it comes to the open spaces of Cielo PUD. It appears that the City has aided the applicant in these endeavors by entering into an agreement with Neal Communities of Southwest Florida, LLC on October 25, 2016 that altered the dedication requirements as they were to apply solely to this one developer.

Was this proper on the part of the City Council? Why have an LDR if special exclusive agreements can be made that overturn these regulations? If this agreement was intended to change these requirements, why was there no public hearing and discussion?

And, why push this forward when there is still an outstanding Writ of Certiorari concerning the 10.42 acres amendment? The Writ states per Attorney Dan Lobeck,

“there is no precedent for the city approving a substantial commercial development designed to serve several thousand people to be built at a location surrounded by residential neighborhoods, and at the very edge of an already existing PUD, the approved binding master plan for which stated that there would be no commercial property.” This continues to be true today and even more so if the size of the commercial acreage is doubled.

Finally, I ask you what kind of precedent does this set for the city’s future homebuyers? Shall we label new developments with the caution, “What you see may not be what you get?”

Thank you for your consideration.

Elana Carnes
201 Medici Terrace

City of Venice Request to Speak

The council / board / commission will hear comments, concerns and questions from members of the public who are present at the meeting during defined periods for public comment on the agenda. The defined periods are listed on the agenda under Audience Participation or Public Hearing.

If you wish to speak, you must fully and legibly complete this "Request to Speak" form and provide it to the City Clerk prior to the start of the meeting or prior to the resumption of the meeting if a break is taken during the meeting.

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- Please be respectful of meeting decorum. Don't approach the Councilmembers at the dais unless called. Don't approach the Charter Officers and staff located at the dais side chambers while the meeting is in session as they are actively participating in the meeting. Availability is before the meeting begins, after the meeting ends or during specified meeting breaks.
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- Public hearings are noted on the agenda and have a separate public comment period as part of the hearing process. If the topic you would like to address is the subject of a public hearing, your name will be called during the public hearing for that topic. If you are presenting evidence or testimony during the public hearing, you are required to read and sign the public hearing oath below.

PRINT LEGIBLY:

Name: ROGER CLARK Phone # _____

Address: _____ Zip _____ Date: 11/24/23

I am (check all that apply):

☒ Speaking on Behalf of ☐ a Venice Resident / Property Owner ☐ a Venice Business Owner

Name: CITY OF VENICE City Address: _____ Business Name: _____

My topic of interest is (check one):

☐ NOT on the Agenda ☒ On the Agenda ☒ Public Hearing - on the Agenda

Item# _____ Item# _____

List Topic here: 23-6322, 23-42FP, Ord. 2023-47, 2023-49, 2023-43, 2023-44, 2023-45

Public Hearing Oath: I swear or affirm, under penalty of perjury, that the evidence or factual representation, which I am about to give or present at the public hearing held today is truthful.

Signature: Roger Clark

CIVIL PLEAS

City of Venice Request to Speak

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PRINT LEGIBLY:

Name: EDW. VOGLER II Phone # 941-720-1605
Address: 705 10TH AVE W. PALMETTO Zip 34221 Date: 11-28-23

I am (check all that apply):

☒ Speaking on Behalf of ☐ a Venice Resident / Property Owner ☐ a Venice Business Owner
Name: BOARD & JAY LINDSEY HOLDINGS, LLC City Address: _____ Business Name: _____

My topic of interest is (check one):

☐ NOT on the Agenda ☒ On the Agenda ☐ Public Hearing - on the Agenda
Item# _____ Item# _____

List Topic here: Audience Part. & ORD 23-42 FD

Public Hearing Oath: I swear or affirm, under penalty of perjury, that the evidence or factual representation, which I am about to give or present at the public hearing held today is truthful.

Signature: _____

Edw Vogler

City of Venice Request to Speak

OPEN SPACE
DEDICATION

The council / board / commission will hear comments, concerns and questions from members of the public who are present at the meeting during defined periods for public comment on the agenda. The defined periods are listed on the agenda under Audience Participation or Public Hearing.

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PRINT LEGIBLY:

Name: JEFFERY A. BOONE Phone # 741-488-6716
Address: _____ Zip _____ Date: 11/28/23

I am (check all that apply):

☒ Speaking on Behalf of ☒ a Venice Resident / Property Owner ☒ a Venice Business Owner
Name: NEAL COMMUNITAS OF SLE FLA City Address: _____ Business Name: _____

My topic of interest is (check one):

☐ NOT on the Agenda ☒ On the Agenda ☐ Public Hearing - on the Agenda
Item# Catchment + open space dedication Item# _____
List Topic here: _____

Public Hearing Oath: I swear or affirm, under penalty of perjury, that the evidence or factual representation, which I am about to give or present at the public hearing held today is truthful.

Signature: _____

City of Venice Request to Speak

*Withdrawn
giving Lee
Duke
a
signed
RTS
Form*

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PRINT LEGIBLY:

Name: Ruth Cordner Phone # 516-474-3956

Address: 246 Montelluna Dr Zip 34211 Date: 11/28/23

I am (check all that apply):

☐ Speaking on Behalf of ☒ a Venice Resident / Property Owner ☐ a Venice Business Owner

Name: _____ City Address: _____ Business Name: _____

My topic of interest is (check one):

☐ NOT on the Agenda ☒ On the Agenda ☐ Public Hearing - on the Agenda
Item# 23428 pp Item# _____

List Topic here: Cielo

Public Hearing Oath: I swear or affirm, under penalty of perjury, that the evidence or factual representation, which I am about to give or present at the public hearing held today is truthful.

Signature: _____

City of Venice Request to Speak

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PRINT LEGIBLY:

Name: Diana Watters Phone # 978 609 2826

Address: 273 Mestre Pl Zip 34275 Date: 11/28/23

I am (check all that apply):

☐ Speaking on Behalf of ☒ a Venice Resident / Property Owner ☐ a Venice Business Owner

Name: _____ City Address: Cielo Business Name: _____

My topic of interest is (check one):

☐ NOT on the Agenda ☐ On the Agenda ☒ Public Hearing - on the Agenda
Item# _____ Item# _____

List Topic here: I want to express people of Cielo being duped

Public Hearing Oath: I swear or affirm, under penalty of perjury, that the evidence or factual representation, which I am about to give or present at the public hearing held today is truthful.

Signature: Diana Watters

City of Venice Request to Speak

The council / board / commission will hear comments, concerns and questions from members of the public who are present at the meeting during defined periods for public comment on the agenda. The defined periods are listed on the agenda under Audience Participation or Public Hearing.

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PRINT LEGIBLY:

Name: GARY SCOTT Phone # 307 630 3624
Address: 156 Persero Dr. Zip 34215 Date: 11/29

I am (check all that apply):

☒ Speaking on Behalf of ☐ a Venice Resident / Property Owner ☐ a Venice Business Owner

Name: Patricia Shreeve City Address: _____ Business Name: _____

My topic of interest is (check one):

☐ NOT on the Agenda ☐ On the Agenda ☐ Public Hearing - on the Agenda
Item# _____ Item# _____

List Topic here: Cielo

Public Hearing Oath: I swear or affirm, under penalty of perjury, that the evidence or factual representation, which I am about to give or present at the public hearing held today is truthful.

Signature: Patricia Shreeve

City of Venice Request to Speak

5 min.

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PRINT LEGIBLY:

Name: GARY SCOTT Phone # 307630.3624
Address: 156 PESARO DR. Zip 34275 Date: 11/28/23

I am (check all that apply):

☒ Speaking on Behalf of ☐ a Venice Resident / Property Owner ☐ a Venice Business Owner
Name: me City Address: _____ Business Name: _____

My topic of interest is (check one):

☐ NOT on the Agenda ☒ On the Agenda ☐ Public Hearing - on the Agenda
Item# 23-42FP Item# _____

List Topic here: Circo Replot - dedication

Public Hearing Oath: I swear or affirm, under penalty of perjury, that the evidence or factual representation, which I am about to give or present at the public hearing held today is truthful.

Signature: Gary Scott

From: [Lee Dubé](#)
To: [City Council](#); [Jim Boldt](#); [Joan Farrell](#); [Rachel Frank](#); [Rick Howard](#); [Ronald Smith](#); [Helen Moore](#); [Nicholas Pachota](#)
Cc: [ronaldcsmith@gmail.com](#); [joanharborlights@protonmail.com](#); [Kelly Michaels](#); [Mercedes Barcia](#); [Toni Cone](#); [Amanda Hawkins-Brown](#)
Subject: City Council 28-Nov-2023 Agenda Item 23-42FP
Date: Monday, November 27, 2023 10:33:38 PM
Attachments: [Cielo Recorded Covenants.pdf](#)

Some people who received this message don't often get email from leedube0925@gmail.com. [Learn why this is important](#)

Caution: This email originated from an external source. **Be Suspicious of Attachments, Links and Requests for Login Information**

Dear Mayor Pachota and members of the City Council,

I am writing to you regarding agenda item 23-42FP "Approve Cielo Replat and Open Space Dedications for Aria and Aria Phase III, Cielo and Milano and Authorize the Mayor, City Attorney and City Engineer to Sign the Final Plan and Open Space Dedications" scheduled for the 28-Nov-2023 City Council meeting. At minimum this request must be denied by Council but ultimately this request should be amended to dedicate **ALL tracts (100, 200, 300-306, 500-504, & 600-603)** as represented on the Cielo Final Plat which was presented to the City in 2019. The fact that the Cielo Plat and Open Space Dedication did not occur in 2019 is astonishing! Regardless, the developers land grab of, at first 10.42 acres (tracts 306 and 501) and more recently, the land grab of an additional ~10 acres (tracts 300 and 500) of Cielo Common Space is in complete violation of the developers very own Declaration of Covenants, Conditions and Restriction for Cielo which they established. I have attached a copy of this document for your ease of reference. This is the official governing document of record for the Cielo subdivision, it was recorded with Sarasota County on 10-Dec-2019 under Instrument # 201916915. I would like to draw your attention to several aspects of this governing document (emphasis added):

1. Page 3, section 1.11 **"Common Property" or "Common Area" or "Common Elements" means all real property** or interests therein, including easements, licenses and servitudes, owned by or granted or leased to the Association, or the use of which has been granted to the Association, together with all improvements thereto. The terms Common Property or Common Areas or Common Elements may be used interchangeably herein to mean and refer to the same things. Common Property also includes any personal property acquired by the Association if designated Common Property, and any property within the Subdivision which is not owned by the Association but is nevertheless to be maintained or administered by it pursuant to an easement, license, this Declaration, or agreement with any person or entity, which maintenance/administration affords benefits to the Members.
2. Page 9, section 4.01 Description of Common Property / Common Areas. (d) Such additional Common Property as Declarant may elect to add and other Common Property that may be acquired by the Association as hereinafter provided. **Declarant reserves the right to amend and alter the development plan and/or scheme of development of the Common Property, in the Declarants sole and absolute discretion, provided such amendment does not delete or convey to another party any Common Property designated, submitted or committed to common usage if such deletion or conveyance would materially and adversely change the nature, size and quality of**

the Common Property. Notwithstanding anything to the contrary herein, Declarant reserves the right to, and the Association, and all Owners by acceptance of deed to any Lot, shall automatically be deemed to have consented to this reservation by the Declarant to change the scheme of the development and general development plan of the Project, including but not limited to additions to and deletions of Common Property, reconfiguration of Lots change of uses, change of Lot types, and all of the changes to the Subdivision and Subdivision Improvements so implemented by the Declarant pursuant hereto.

3. Page 58, Exhibit A Cielo Legal Description. **This details the >89 acres of land mass that is part of the Cielo subdivision.**
4. Page 64, Exhibit E List of Holdings For Cielo. **This details the tracts that are part of Cielo - tracts 100, 200, 300-306, 500-504, & 600-603.**

As you can see from the approved final plat, also attached, and the Declaration of Covenants, Conditions and Restriction for Cielo all tracts are considered part of Cielo and should be dedicated in its entirety. The Release and Termination of Cielo Easements & Restrictive Covenants filed on 21-Oct-2022 (Instrument 2022164599), the Release and Termination of Cielo Easements & Restrictive Covenants filed on 21-Oct-2022 (Instrument 2022165138), and the Amended And Restated Release And Termination Of Cielo Easements & Restrictive Covenants filed on 24-Oct-2023 (Instrument 2023160842) have 'materially and adversely changed the nature, size and quality of the Common Property' in Cielo which is explicitly prohibited by the Declaration of Covenants, Conditions and Restriction for Cielo.

This fiasco over Cielo property must end; it has consumed countless hours of City resources, individual resident resources, created disputes, impacted the perception of Venice as a whole, and so much more. Please stop this madness! Hold the developer accountable to the rules they themselves set, dedicate ALL of the Cielo tracts as initially presented and approved.

Thank you!

Lee Dube
268 Caserta Ct
Venice, FL 34275
603-489-7736



[Cielo Plat.pdf](#)

From: [Suzanne Holway Jerry](#)
To: [Suzanne Jerry](#); [City Council](#)
Cc: [Kelly Michaels](#); [Mercedes Barcia](#); [Toni Cone](#); [Amanda Hawkins-Brown](#)
Subject: Fwd: Council Action Discussion 23-42FP
Date: Monday, December 4, 2023 10:46:18 AM

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Sent from my iPhone Suzanne

Begin forwarded message:

From: Suzanne Holway Jerry <schkitchen58@gmail.com>
Date: December 4, 2023 at 10:29:30 AM EST
To: citycouncil@venicegov.com
Subject: Fwd: Council Action Discussion 23-42FP

Sent from my iPhone Suzanne

Begin forwarded message:

From: Suzanne Holway Jerry <schkitchen58@gmail.com>
Date: November 28, 2023 at 2:48:17 PM EST
To: Suzanne Jerry <schkitchen58@gmail.com>
Subject: Fwd: Council Action Discussion 23-42FP

Sent from my iPhone Suzanne

Begin forwarded message:

From: Suzanne Holway Jerry
<schkitchen58@gmail.com>
Date: November 28, 2023 at 12:57:46 PM EST
To: Suzanne Jerry <schkitchen58@gmail.com>, Mark
Jerry <markajerry1@gmail.com>

Subject: Council Action Discussion 23-42FP

Good Afternoon Council Members ,

I am Suzanne Jerry my husband Mark and I have been residents of the VRGC Community since 2018 and are also registered Florida / Venice voters . We signed up to speak on Nov 28 th and you only permitted 14 speakers and 1 hour during the morning session for citizen speakers . I was scheduled as speaker 16 so had to wait until later in the day . This happens rather often with citizen speakers when an agenda item is a concern to the voters .

My question is why are you scheduling so many items on a docket for the day when the city knows that certain items warrant more time for discussion related to citizen input and fair representation . I personally saw Boone turn in speaker cards later in the morning and then turn in more speaker cards just prior to your lunch break period . I thought there were time restriction submission rules in play related to when these speaker cards could be turned in . Boone deliberately turned these in so late he was the last person to speak and signed on the land lawyer in the mix so that his testimony was the last to be heard prior to the decision you made . We thank the 3 council members who listened to what was shared . We watched as two council members showed obvious disinterest in the citizen speakers .

We have watched repeatedly as Boone negotiates his way around the rules that are in play including a side bar conversation often in the public area near the city planning area with the staff including recently the long standing 20 year city engineer that received recognition that same morning .

Although registered to speak , we had to run family to the airport and missed the opportunity to speak . This happens a lot with citizen speakers . Knowing this was a concerning item we feel the city needs to spend more time considering the citizens rights and the known

attendance factor in play given the agenda items placed on your schedules and factor that into permitting enough time to honor citizens input and speaker time . We feel and a large coalition of citizens who voted recently also believe that the city purposefully accommodates the builder with honoring preferential agenda item time allocated in a rather expedient manner . We feel this agenda item discussed on Nov 28 th should have been tabled given the importance and center stage time weighing in on the argue presented that the opposition revealed to you through the very intelligent relevant and legally presented arguments sent via email by citizen lawyers and the arguments shared by the dozen very intelligent citizens all on point and not subjectively constructed points shared .

We appreciate your service with your attention to detail on many city issues but feel many of you have long neglected to honestly weigh in on the impact of rezoning decisions gifted to a few builders but specifically any builder Boone represents . Boone has clearances and gold key access to everyone in the city . This is what the perception of the public is ! Watching meetings in person attending and watching Boone slip in and out of doorways and spontaneous side bar conversations in side corridors during breaks is a common practice observed the past two years , we also zoom in and feel during the quasi judicial hearing you permitted an excessive amount of unwarranted objections offered by Boone disrupting any flow of testimony being shared . It was rather appalling .

You have real estate brokers sitting in the city council in play with all decisions how is this considered a neutral party ? During the quasi judicial hearings more than 2 dozen citizens were not able to share their 3 minute prepared statements because they were not given a designated time and after two days of sitting and waiting they had other commitments . We sat through those days until the very end and were shocked at the name after name of called residents who had simply given up or were otherwise engaged because not set time was provided to them . How unfair !

We love this city and most of what it offers . Our concerns rest with literally thousands of other voters related to development and growth decisions and liberties gifted to Neal Communities . During the Nov 28 th hearing you heard a few of those approvals and deals awarded to Neal today one permitting narrower roadways and only one set of off road sidewalks instead of two because Neal was stipulating more common open lands for his Milano PUD residents and then the bait and switch tactic that is playing out now .

So many incidents of these brokered and then broken deals have been shared over days of testimony related to Neal Communities operational tactics . So we are naturally DISAPPOINTED that time wasn't afforded to speak this morning limiting citizen speaker time to a total of one hour given the agenda item in play today with the city knowing the extent of public interest in agenda item 23-42FP stating the intent to approve the Cielo Replat without the wetlands in play as established common lands and the failure to designate the remaining open space dedications . The neglect of the city not pursuing this when it is designated in the LDR's . Again favoritism awarded to Neal and turning a blind eye to what is legally merited according to city rules . This decision should have been discussed but tabled . Surely he couldn't sue you for tanking this decision in light of the pending judicial court decision needed to determine a risk unified control designees etc .

Please slow down your procedural approvals for developers and the pace and push Neal and Boone specifically are pushing forward related to this decision and quite frankly others in play with growth impact developer asks and rezoning requests so they are properly vetted , studied and aired publicly .

We respectfully wanted to ask that you table this agenda decision given the lands in question remain in disputed ownership and are legally being challenged related to what is their permitted use . Our speaker time was too late in the day to share any statement so I am now sending you what we intended to share .

As my husband and I listened to the intelligent citizen speakers this morning we felt a lot of truths and realities

were blatantly clear and related in respect to citizen perspective and specifically thousands of citizens ready to enlist suits related to recent decisions occurring with the City Council . Many North Venice citizens shared their concerns related to the gifted fast paced zoning decisions provided to Neal and Boone acting as his representative . They spoke about the honest feeling of betrayal and the neglectful dismissal of basing decisions on the Land Development Regulations and approved Developer Master Plans and the tendency for Venice City to overlook deadlines related to on the books laws related to when Platting occurs at the behest of Neal and Boone manipulating the true realities of the Laws in play .

We liken the decision awarded Neal Communities related to permitted rezoning and ignored typical land regulatory awarded provisions as similar in nature to traffic regulatory scenarios . The citizens respect the laws yielding and stopping and believe in the traffic lights that are programmed to regulate traffic flows . We the citizens have faith in the rules dictating roadway courtesies and laws . You the council members are suppose to control and help regulate who is entering and exiting roadways and the council not Neal and Boone are inevitably the official designees and represent the interests of the citizens their health and welfare on those roadways . The offenders folks that ignore STOP signs and yield signs and run through traffic lights I liken presently to Neal Communities in Venice and they are not being held accountable for the rules in play and honestly it feels like they have been handed the keys to the traffic lights and traffic might regulators . They Neal and Boone don't appear to feel the need to follow the rules of the road related to dedication timing and the LDR's in play related to citizens rights and they feel they can circumvent the laws in play with concocted legal mumbo jumbo jargon . A push to dedicate a replatt as Neal has in the midnight hour redesigned the land in question that negates consideration of citizens awaiting a judicial judgement feels ludicrous right now .

Consider the numerous citizen resident testimonials related to the Milano PUD homeowners presenting legal relevant documentation legally contradicting Neal's claims to unified control such as very the questionable secretive reassignment land methods are being challenged through the proper channels involving a

judicial court decision which should place everything related to this parcel on hold . That determination needs to be rendered . Proceeding with this replatt of a commercial entity in place of preserve and wetlands believed by residents to be held in common by their community acquired by believed illegal unlawful means is very concerning and is not beneficial to the existing homeowners within the Milano PUD and the VRGC Unified control has not been established by Neal and Boone , the means by which these lands were secretly reassigned by Neal and Boone is legally being questioned and contested by a large contingency of impacted citizens . This decision to move forward on many accounts related to land development decisions quickly at Boones bequest for Neal is concerning and implies that the Boone multi generational Homs grown Legal Group representing Neal Community interests the is greater favor and privileges not afforded to the citizens and voters in Venice . These shannanigans permitting back door entry to quickly execute Developer non permissible agendas need to end . The developer needs to be held accountable and regulated .

Why is the city council squiring a developers rezoning requests when it is clearly negating clear LDR standards. The land is at this point held in common no matter what Boone and Neal claim as their perspective . Permitting this builder to continue moving forward with illegal maneuvers legally is unconscionable and speaks of a true betrayal to the thousands of North Venice citizens that have shared and continue to vest time and money sharing that rational on a legal level .

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From: [Suzanne Holway Jerry](#)
To: [City Council](#)
Cc: [Kelly Michaels](#); [Mercedes Barcia](#); [Toni Cone](#); [Amanda Hawkins-Brown](#)
Subject: Fwd: Council Action Discussion 23-42FP
Date: Monday, December 4, 2023 10:29:42 AM

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Sent from my iPhone Suzanne

Begin forwarded message:

From: Suzanne Holway Jerry <schkitchen58@gmail.com>
Date: November 28, 2023 at 2:48:17 PM EST
To: Suzanne Jerry <schkitchen58@gmail.com>
Subject: Fwd: Council Action Discussion 23-42FP

Sent from my iPhone Suzanne

Begin forwarded message:

From: Suzanne Holway Jerry <schkitchen58@gmail.com>
Date: November 28, 2023 at 12:57:46 PM EST
To: Suzanne Jerry <schkitchen58@gmail.com>, Mark Jerry <markajerry1@gmail.com>
Subject: Council Action Discussion 23-42FP

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citizen input and fair representation . I personally saw Boone turn in speaker cards later in the morning and then turn in more speaker cards just prior to your lunch break period . I thought there were tile frosted to when these speaker cards could be turned in . Boons deliberately turned these in so late he was the last person to speak and signed on the land lawyer in the mix so that his testimony was the last to be heard . We have watched repeatedly as Boone negotiates his way around the rules that are in play including a side bar conversation in the public area near the city planning area with the long standing 20 year city engineer that received recognition that sane morning . We had to run family to the airport and missed the opportunity to speak . This happens a lot with citizen speakers . Knowing this was a concerning item we feel the city needs to spend more time considering the citizens rights and the known attendance factor in play given the agenda items placed on your schedules and factor that into permitting enough time to honor citizens input and speaker time . We feel among a large coalition of citizens who voted recently that the city purposefully accommodates the builder with honoring preferential agenda item time allocated in a rather expedient manner . We feel this agenda item should have been tabled given the importance and center stage opposition revealed to you through the very intelligent relevant and legally presented arguments sent via email by citizen lawyers and the arguments shared by the dozen very intelligent citizens all on point and not subjectively constructed points shared . We appreciate your service with your attention to detail on many city issues but feel many of you have long neglected to honestly weigh in on the impact of rezoning decisions gifted to a few builders but specifically any builder Boone represents . He has clearances and gold key access to everyone in the city . This is what the perception of the public is ! Watching meetings in person attending and watching Boone slip in and out of doorways and spontaneous side bar conversations in side corridors during breaks is a common practice observed the past two years , we also zoom in and feel during the quasi judicial hearing you permitted an excessive amount of unwarranted objections offered by Boone disrupting any flow of testimony being shared . It was rather appalling . You have real estate brokers sitting in the city council in play with all decisions how is this considered a neutral party ? During the quasi judicial hearings more than 2 dozen citizens were not able to share their 3 minute prepared statements because they were not given a designated time and after two days of sitting and waiting they had other commitments . We sat through those days until the very end and were shocked at the name after name of called residents who had simply given up or were otherwise engaged because not set time was provided to them . How unfair !

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Sent from my iPhone Suzanne

From: [Mike Wojnowski](#)
To: [City Council](#)
Cc: [Kelly Michaels](#); [Mercedes Barcia](#); [Toni Cone](#); [Amanda Hawkins-Brown](#)
Subject: Laurel road Publix shopping center on Milano advertised/designated Open Space
Date: Thursday, November 30, 2023 6:47:33 AM

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Mayor
City Council:

The last year has been spent battling over whether Neal Communities has the right to violate PUD regulations and create commercial space on land identified as protected open space for 99 years. The usually pro developer City Council recommended the zoning change required to allow this NOT BE APPROVED by the City Council.

Lengthy Public hearings were held with the residents loudly advising City Council that it was against the law to make this change. Hard to imagine why City Council ignored all the input and voted once again to do whatever a big developer wants. Now a special appeals court will decide whether developers can do whatever they want at any time in the PUD process.

In order to avoid this type of fiasco and public relations nightmare in the future, I would like to suggest the the entire PUD process be reviewed and modified. There is no way a PUD developer should be able to advertise with printed brochures that land will be designated as open space and then disregard their own advertising material and testimony to both the Planning Commission and City Council and change open space to commercial space not just for PUD residents, but for the entire N Venice population. This is a clear case of bait and switch which in most courts of law would not be allowed.

If your current PUD process allows this unethical behavior, shame on all of you for allowing it. Is this how you believe customers should be treated in a business transaction, a transaction that is probably the most important and expensive one in anyone's lifetime. Is this the kind of protection you want to give to wildlife which is such an important piece of Florida for many residents!

Do your jobs. Listen to all of us and not just developers. We got rid of 2 pro developer Council Members in this last election. The people have spoken. It would be smart for the 5 incumbents to look

In their personal

Mirrors and start listening and representing all residents and not just developers unless you want to be voted out as well.

Lastly, we should also consider having Council Members in the Real Estate industry not be allowed to vote on real estate matters that could directly benefit their industry. This appears to be a potential conflict of interest and makes many question who exactly is running the City of Venice.

Change the PUD process to one that works for all residents and not just big money developers who often don't even live here.

Mike W

A concerned resident who is tired of watching developers destroy Paradise with elected officials approval

From: [Deborah Siemens](#)
To: [Nicholas Pachota](#); [City Council](#); [Deborah Siemens](#)
Cc: [Kelly Michaels](#); [Mercedes Barcia](#); [Toni Cone](#); [Amanda Hawkins-Brown](#)
Subject: Pat Neal Request that 21.3367 acres (not 10.42 acres) be Released from Cielo S/D Open Space on 11/28/2023
Date: Sunday, November 26, 2023 7:59:18 PM

Some people who received this message don't often get email from d.siemens50@hotmail.com. [Learn why this is important](#)

Caution: This email originated from an external source. **Be Suspicious of Attachments, Links and Requests for Login Information**

Dear Mayor Pachota and members of the Venice City Council:

I have resident of Florida and resident of the Venetian Golf & River Club (Venetian) since 2021. As you know, the 21.3367 acres described in Petition 23-42FP is directly across Laurel Road from the Venetian.

On July 11, over the objection of homeowners in the Venetian, Cielo, Aria, Milano and Willow Chase, the Council voted 5-2 to approve the conversion of valueless wetlands platted as open space on the Cielo subdivision plat (53-288 on October 24, 2019) and made subject to the Cielo Covenants, to very valuable shopping center property after the sale of hundreds of homes in the Milano, Aria and Cielo subdivisions based on the "Binding Master Plan" for the Milan PUD which promised that there would be no commercial uses. This action by the Pat Neal companies was described as a classic "bait and switch" action.

On August 10, the non-profit North Venice Neighborhood Alliance, Inc., filed a Writ of Certiorari for judicial review of the decision of the City Council.

The Writ said "As explained by Attorney Dan Lobeck at the City Council hearing below 'there is no precedent for the city approving a substantial commercial development designed to serve several thousand people to be built at a location surrounded by residential neighborhoods, and at the very edge of an already existing PUD, the approved binding master plan for which stated that there would be no commercial property.'"

Today, it continues to exist, just as it did on July 11, that the proposed shopping center is incompatible with the surrounding area and is not designed to serve just the homes in Cielo as mentioned by some Council

members. I believe that the decision to be made by the Court on the Writ of Certiorari should determine that the rezoning decision of the City Council on July 11 violated even more of the Land Development Regulations and should be declared null and void.

As far as I know, the City has not yet even filed a response to the Writ of Certiorari.

**Approval of this Petition 23-42 RP will unreasonably
exacerbate the problem created by the defective rezoning
decision of July 11**

The Staff Report for this Petition says: “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.”

**This is a Petition to remove 21.3367 acres of Open Space from
the Cielo Subdivision not just 10.42 acres**

The Cielo subdivision plat (Plat Book 53-288) contained a Note that said:

“4) All Lands within The Plat are subject to the Declaration of Covenants, Conditions and Restrictions For Cielo, to be recorded in Official Records Instrument No. 2019169159 of the Public Records of Sarasota County, Florida”.

The Cielo Plat contained the following open space tracts that included the 21.3367 acres described in Petition 23-42FP:

Tract 600: Open space, Private Drainage & Flowage Easement.
Tract 501: Private Lake, Drainage & Flowage Easement.
Tract 306: Wetland, Private Drainage & Flowage Easement

In the July 11 Rezoning case (22-38RZ), the Petitioner presented a

Release and Termination of Cielo Easements & Restricted Covenants dated October 1, 2022 (2022165138). This Release document was executed by Chris Clark, an employee of the Neal companies, as president of the Cielo Neighborhood Association, Inc. The Release **incredibly** stated: “Neal and Association agree that it is in the best interests of the landowners within the Cielo Subdivision to release, terminate and remove the lands set forth on Exhibit “A”, attached hereto and incorporated herein from (i) any and all easements and reservations held by Neal and/or Association pursuant to the Plat, and (ii) all terms, covenants, conditions, restrictions, reservations, easements, assessments, and liens of the Declaration, such that the lands set forth on Exhibit “A” shall no longer to subject to the Declaration.”

I respectfully submit to you that no reasonable person would agree that the release of 10.42 acres of valueless wetlands platted as open space and touted as a “Preserve” for the development of a regional shopping center was in the best interest of the homeowners in the Cielo Subdivision.

In addition, not even Pat Neal can reasonably contend that the very suspect Release also released more than the 10.42 acres included. This Petition is to remove 21.3367 acres of open space from the Cielo Covenants, not just 10.42 acres, thus it is seeking to also remove another 10.9167 acres of platted open space from the Cielo Covenants. Perhaps, Pat Neal also believes that to be in the best interest of the Cielo homeowners.

The Petitioner touts an opinion on title dated December 2, 2022, representing that fee simple marketable title in the 10.42 acres tract is vested in the Neal company and references a title commitment by Old Republic National Title Insurance Company dated December 2. This looks to me like it is an opinion by Pat Neal’s attorney who is also a commission agent for the title company. The title opinion and title insurance commitment mentioned does nothing more than offer insurance over possible claims relating to the very suspect Release. It cannot remove the suspect Release as a possible defect in the title, if it is one.

However, even more importantly, it has nothing to do with the

additional 10.9167 acres which appears to continue to be covered by the Cielo Covenants.

Request that Council Deny or Postpone a Decision

I respectfully request that the Council either deny Petition 23-42FP or at a minimum delay any further action on it pending further study and pending the outcome of the Writ of Certiorari case.

I have obligation to women's league appointment on Tuesday that I cannot reschedule, so I apologize for probably not being able to attend the portion of your meeting when this matter will be considered.

Thanks for your consideration.

Deborah Siemens
Venetian Golf & River Club
109 Terra Bella Ct
North Venice, Fl.
34275

Sent from my iPhone

From: [Marshall Happer](#)
To: [City Council](#)
Cc: [Ronald Smith \(ronaldsmith@gmail.com\)](#); [Joan Farrell \(joanharborlights@protonmail.com\)](#); [Kelly Fernandez](#); [Roger Clark](#); [Jeffery A. Boone Esquire \(jboone@boone-law.com\)](#); [Kelly Michaels](#); [Mercedes Barcia](#); [Toni Cone](#); [Amanda Hawkins-Brown](#)
Subject: Petition 23-42 FP
Date: Monday, November 27, 2023 4:27:57 PM

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Dear Mayor Pachota and members of the City Council:

Subsequent to my email of yesterday, it has come to my attention that on October 24, 2023, a new suspect Amended and Restated Release and Termination of Cielo Easements & Restrictive Covenants was filed in Instrument 2023160842 by the Neal companies “as joined by Cielo Neighborhood Association, Inc.” purporting to release the entire 21.3367 acres from the Cielo Covenants. This document says that it amends Instrument #2019169159 which only applied to 10.42 acres and said: “Neal and Association agree that it is in the best interests of the landowners within the Cielo Subdivision to release, terminate and remove the lands set forth on Exhibit “A”, attached hereto and incorporated herein from (i) any and all easements and reservations held by Neal and/or Association pursuant to the Plat, and (ii) all terms, covenants, conditions, restrictions, reservations, easements, assessments, and liens of the Declaration, such that the lands set forth on Exhibit “A” shall no longer to subject to the Declaration.”

The new October 24 Amended and Restated Release does not claim to be in the “best interest” of the homeowners in Cielo, but instead claims that it was “joined by, consented to, ratified and approved by Association.” The document was signed for the Cielo Neighborhood Association, Inc., by Mark Borgiasz, an employee of Neal as president.

The document says that it does “not require the consent, joinder, ratification, or approval of any other party” and cites Section 12.04 (Page 40 of the Cielo Covenants) as granting Neal the sole and absolute authority to make any changes to the Common Property. However the document does not mention the conflicting provision in Section 4.01(d) (Page 9 of the Cielo Covenants) that says: “Declarant reserves the right to amend and alter the development plan and/or scheme of development of the Common Property, in Declarant's sole and absolute discretion, **provided such amendment does not delete or**

convey to another party any Common Property designated, submitted or committed to common usage if such deletion or conveyance would materially and adversely change the nature, size and quality of the Common Property. Notwithstanding anything to the contrary herein, Declarant reserves the right to, and the Association, and all Owners by acceptance of a deed to any Lot, shall automatically be deemed to have consented to this reservation by Declarant to change the scheme of the development and general development plan of the Project, including but not limited to, additions to, and deletions of the Common Property, reconfiguration of Lots, change of uses, change of Lot types, and all other changes to the Subdivision and Subdivision Improvements so implemented by Declarant pursuant hereto.”

I against respectfully submit that no reasonable person would agree that the release of 21.3367 acres of valueless wetlands platted as open space and touted as a “Preserve” for the development of a regional shopping center, plus or minus a new apartment project, did not “materially and adversely change the nature, size and quality of the Common Property” in the Cielo Subdivision.

It is worth noting that the two suspect Releases were filed after the rezoning Petition 22-38RZ was filed on June 14, 2022. The 1st suspect Release was filed on October 21, 2022 (2022165138), and the new suspect Release was filed on October 24, 2023 (2023160842).

Request that Council Deny or Postpone a Decision

I respectfully reconfirm my request that the Council either deny Petition 23-42FP or at a minimum delay any further action on it pending further study and pending the outcome of the Writ of Certiorari case.

Thanks for your consideration.

Marshall Happer

Marshall Happer
117 Martellago Drive
North Venice, FL 34275
941-480-0265

From: [Marshall Happer](#)
To: [City Council](#)
Cc: [Ronald Smith \(ronaldsmith@gmail.com\)](#); [Joan Farrell \(joanharborlights@protonmail.com\)](#); [Roger Clark](#); [Kelly Fernandez](#); [Jeffery A. Boone Esquire \(jboone@boone-law.com\)](#); [Kelly Michaels](#); [Mercedes Barcia](#); [Toni Cone](#); [Amanda Hawkins-Brown](#)
Subject: Petition 23-42 FP
Date: Sunday, November 26, 2023 5:51:11 PM

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Dear Mayor Pachota and members of the Venice City Council:

I have been a full-time citizen and resident of the Venetian Golf & River Club (Venetian) since 2005. As you know, the 21.3367 acres described in Petition 23-42 is directly across Laurel Road from the Venetian.

On July 11, over the objection of homeowners in the Venetian, Cielo, Aria, Milano and Willow Chase, the Council voted 5-2 to approve the conversion of valueless wetlands platted as open space on the Cielo subdivision plat (53-288 on October 24, 2019) and made subject to the Cielo Covenants, to very valuable shopping center property after the sale of hundreds of homes in the Milano, Aria and Cielo subdivisions based on the “Binding Master Plan” for the Milan PUD which promised that there would be no commercial uses. This action by the Pat Neal companies was described as a classic “bait and switch” action.

On August 10, the non-profit North Venice Neighborhood Alliance, Inc., filed a Writ of Certiorari for judicial review of the decision of the City Council.

The Writ said “As explained by Attorney Dan Lobeck at the City Council hearing below ‘there is no precedent for the city approving a substantial commercial development designed to serve several thousand people to be built at a location surrounded by residential neighborhoods, and at the very edge of an already existing PUD, the approved binding master plan for which stated that there would be no commercial property.’”

Today, it continues to exist, just as it did on July 11, that the proposed shopping center is incompatible with the surrounding area and it not designed to serve just the homes in Cielo as mentioned by some Council members. I believe that the decision to be made by the Court on the Writ of Certiorari should determine that the rezoning decision of the City Council on July 11 violated even more of

the Land Development Regulations and should be declared null and void.

As far as I know, the City has not yet even filed a response to the Writ of Certiorari.

Approval of this Petition 23-42 RP will unreasonably exacerbate the problem created by the defective rezoning decision of July 11

The Staff Report for this Petition says: “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.”

This is a Petition to remove 21.3367 acres of Open Space from the Cielo Subdivision not just 10.42 acres

The Cielo subdivision plat (Plat Book 53-288) contained a Note that said:

“4) All Lands within The Plat are subject to the Declaration of Covenants, Conditions and Restrictions For Cielo, to be recorded in Official Records Instrument No. 2019169159 of the Public Records of Sarasota County, Florida”.

The Cielo Plat contained the following open space tracts that included the 21.3367 acres described in Petition 23-42FP:

Tract 600: Open space, Private Drainage & Flowage Easement.

Tract 501: Private Lake, Drainage & Flowage Easement.

Tract 306: Wetland, Private Drainage & Flowage Easement

In the July 11 Rezoning case (22-38RZ), the Petitioner presented a Release and Termination of Cielo Easements & Restricted Covenants dated October 1, 2022 (2022165138). This Release document was executed by Chris Clark, an employee of the Neal companies, as president of the Cielo Neighborhood Association, Inc. The Release **incredibly** stated: “Neal and Association agree

that it is in the best interests of the landowners within the Cielo Subdivision to release, terminate and remove the lands set forth on Exhibit “A”, attached hereto and incorporated herein from (i) any and all easements and reservations held by Neal and/or Association pursuant to the Plat, and (ii) all terms, covenants, conditions, restrictions, reservations, easements, assessments, and liens of the Declaration, such that the lands set forth on Exhibit “A” shall no longer to subject to the Declaration.”

I respectfully submit to you that no reasonable person would agree that the release of 10.42 acres of valueless wetlands platted as open space and touted as a “Preserve” for the development of a regional shopping center was in the best interest of the homeowners in the Cielo Subdivision.

In addition, not even Pat Neal can reasonably contend that the very suspect Release also released more than the 10.42 acres included. This Petition is to remove 21.3367 acres of open space from the Cielo Covenants, not just 10.42 acres, thus it is seeking to also remove another 10.9167 acres of platted open space from the Cielo Covenants. Perhaps, Pat Neal also believes that to be in the best interest of the Cielo homeowners.

The Petitioner touts an opinion on title dated December 2, 2022, representing that fee simple marketable title in the 10.42 acres tract is vested in the Neal company and references a title commitment by Old Republic National Title Insurance Company dated December 2. This looks to me like it is an opinion by Pat Neal’s attorney who is also a commission agent for the title company. The title opinion and title insurance commitment mentioned does nothing more than offer insurance over possible claims relating to the very suspect Release. It cannot remove the suspect Release as a possible defect in the title, if it is one.

However, even more importantly, it has nothing to do with the additional 10.9167 acres which appears to continue to be covered by the Cielo Covenants.

Request that Council Deny or Postpone a Decision

I respectfully request that the Council either deny Petition 23-42FP or at a minimum delay any further action on it pending further study and pending the outcome of the Writ of Certiorari case.

I have a doctor's appointment on Tuesday that I cannot reschedule, so I apologize for probably not being able to attend the portion of your meeting when this matter will be considered.

Thanks for your consideration.

Marshall Happer

Marshall Happer
North Venice, FL 34275

From: [Lisa Backer](#)
To: [City Council](#)
Cc: [Kelly Michaels](#); [Mercedes Barcia](#); [Toni Cone](#); [Amanda Hawkins-Brown](#)
Subject: Petition 23-42FP
Date: Monday, November 27, 2023 10:49:09 PM

Some people who received this message don't often get email from jlbacker@gmail.com. [Learn why this is important](#)

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Hello Venice City Council Members,

I am writing in connection with "Petition 23-42P Approve Cielo Replat and Open Space Dedications for Aria and Aria Phase III, Cielo and Milano " which is on the 11/28/2023 agenda. Being a native Floridian, and longtime Venice resident, I am very interested in slowing growth. Development in Venice and Sarasota County is being done without evaluating the impact to the environment and quality of life. I voted for the two new council members (Smith and Farrel) and congratulate them on being sworn into the council. Hopefully, their presence on the council will slow growth. All the council should listen to the community and halt some of the rampant development of open spaces in the community.

I work full-time, so this email is the only way I could find to respond to this latest request for more development.

Thank you for your time and consideration.

Lisa Backer
1620 Valley Dr, Venice, FL 34292

From: [Lee Dubé](#)
To: [City Council](#); [Jim Boldt](#); [Joan Farrell](#); [Rachel Frank](#); [Rick Howard](#); [Ronald Smith](#); [Helen Moore](#); [Nicholas Pachota](#)
Cc: ronaldsmith@gmail.com; joanharborlights@protonmail.com; jboone@boone-law.com; [Ed Vogler](#); [Kelly Michaels](#); [Mercedes Barcia](#); [Toni Cone](#); [Amanda Hawkins-Brown](#)
Subject: Re: City Council 28-Nov-2023 Agenda Item 23-42FP
Date: Tuesday, November 28, 2023 9:56:35 PM
Attachments: [Gmail - Items prior to turnover.pdf](#)
[Gmail - RE Cielo Neighborhood - Election of Directors & Annual Membership Meeting.pdf](#)
[Gmail - RE Cielo Neighborhood2 - Election of Directors & Annual Membership Meeting.pdf](#)

Some people who received this message don't often get email from leedube0925@gmail.com. [Learn why this is important](#)

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Dear Mayor Pachota and members of the City Council,

Thank you for your time and attention today relative to agenda item 23-42FP. To say I am disappointed in your vote is an understatement. More so, however, there are no words to describe my feelings about Ed Vogler's many contorted comments about Cielo! His statement that Cielo did not want the land in question is nothing short of a LIE. Attached is the email Ed referenced; it is far from what he portrayed. The email is actually an attempt by Cielo to recoup losses incurred as a result of the developers' actions. While I have not established myself in the community or established my credibility due to my short time in the area, rest assured, I am a man of integrity and accountability. My professional career, my history of public service, and my very being is built upon the tenant of doing what is right even when no one is looking. I can handle being called into question but I have ZERO tolerance for blatantly false information about me.

According to Jeff Boone and Ed Vogler, this is all very simple but has been made needlessly complex and confusing. I agree with them on that point! But, the question is who has made it complex? From my vantage point the developer is guilty on that point. For example, they would have never spoken to the additional 10 acres (tracts 300, 301, & 500) today had I not brought this up. Why? Well, the answer is in the record; they simply passed that off as an oversight that was not relevant because Cielo didn't want that land anyways. WRONG! We want our land, we want all of our land, we want the land that was sold to us. Heck, their land grab violates the very CCR's Ed wrote up! See Cielo CCR's page 9, section 4.01 Description of Common Property / Common Areas. (d) Such additional Common Property as Declarant may elect to add and other Common Property that may be acquired by the Association as hereinafter provided. **Declarant reserves the right to amend and alter the development plan and/or scheme of development of the Common Property, in the Declarant's sole and absolute discretion, provided such amendment does not delete or convey to another party any Common Property designated, submitted or committed to common usage if such deletion or conveyance would materially and adversely change the nature, size and quality of the Common Property.** Notwithstanding anything to the contrary herein, Declarant reserves the right to, and the Association, and all Owners by acceptance of deed to any Lot, shall automatically be deemed to have consented to this reservation by the Declarant to change the scheme of the development and general development plan of the Project, including but not limited to additions to and deletions of Common Property, reconfiguration of Lots change of uses, change of Lot types, and all of the changes to the Subdivision and Subdivision Improvements so implemented by the Declarant pursuant hereto.

In the Associations public meeting to review the 2024 Proposed Operating Budget, I asked who was paying to maintain the land on the 10.42 acres. Tracy Hecht, a Neal representative, responded "you still own that land so you, Cielo, are paying for that". I thought we heard today and previously that Cielo never owned that land. Interesting!

When it comes to false information, you heard today from Jeff and Ed that the land in question was never part of Cielo. Hmmm, then why is **each and every** tract of land associated with today's decision referenced in Cielo's CCR's and its Final Plat and Re-Plat? You see, they confuse matters with a shell game of Milano PUD vs Cielo subdivision vs only talking about the 10 acres vs 58% open space vs whatever argument suits their needs. But then again, I guess that's what a highly trained well paid attorney does. To borrow a phrase from a chief Neal executive, I suppose the issue is "too complex" for a simple man from New Hampshire to understand.

You also heard from Ed that the developers refusal to turn the community over to the residents was false. There were numerous attempts made to have the developer comply with state statute relative to turnover (see attached for that information). It required a formal demand letter from an attorney to spur the developer into action. Or perhaps it was that the fact that the removal of tracts 300, 301, and 500 were finalized on 24-Oct-2023, likely more prematurely than would have been preferred by some.

Regards,

lee

On Mon, Nov 27, 2023 at 10:31 PM Lee Dubé <leedube0925@gmail.com> wrote:

Dear Mayor Pachota and members of the City Council,

I am writing to you regarding agenda item 23-42FP "Approve Cielo Replat and Open Space Dedications for Aria and Aria Phase III, Cielo and Milano and Authorize the Mayor, City Attorney and City Engineer to Sign the Final Plan and Open Space Dedications" scheduled for the 28-Nov-2023 City Council meeting. At minimum this request must be denied by Council but ultimately this request should be amended to dedicate **ALL tracts (100, 200, 300-306, 500-504, & 600-603)** as represented on the Cielo Final Plat which was presented to the City in 2019. The fact that the Cielo Plat and Open Space Dedication did not occur in 2019 is astonishing! Regardless, the developers land grab of, at first 10.42 acres (tracts 306 and 501) and more recently, the land grab of an additional ~10 acres (tracts 300 and 500) of Cielo Common Space is in complete violation of the developers very own Declaration of Covenants, Conditions and Restriction for Cielo which they established. I have attached a copy of this document for your ease of reference. This is the official governing document of record for the Cielo subdivision, it was recorded with Sarasota County on 10-Dec-2019 under Instrument # 201916915. I would like to draw your attention to several aspects of this governing document (emphasis added):

1. Page 3, section 1.11 **"Common Property" or "Common Area" or "Common Elements" means all real property** or interests therein, including easements, licenses and servitudes, owned by or granted or leased to the Association, or the use of which has been granted to the Association, together with all improvements thereto. The terms Common Property or Common Areas or Common Elements may be used interchangeably herein to mean and refer to the same things. Common Property also includes any personal property acquired by the Association if designated Common Property, and any property within the Subdivision which is not owned by the Association but is nevertheless to be maintained or administered by it pursuant to an easement, license, this Declaration, or agreement with any person or entity, which maintenance/administration affords benefits to the Members.
2. Page 9, section 4.01 Description of Common Property / Common Areas. (d) Such additional Common Property as Declarant may elect to add and other Common Property that may be acquired by the Association as hereinafter provided. **Declarant reserves the right to amend and alter the development plan and/or scheme of development of the Common Property, in the Declarants sole and absolute discretion, provided such amendment does not delete or convey to another party any Common Property designated, submitted or committed to common usage if such deletion or conveyance would materially and adversely change the nature, size and quality of the Common Property.** Notwithstanding anything to the contrary herein, Declarant reserves the right to, and the Association, and all Owners by acceptance of deed to any Lot, shall automatically be deemed to have consented to this reservation by the Declarant to change the scheme of the development and general development plan of the Project, including but not limited to additions to and deletions of Common Property, reconfiguration of Lots change of uses, change of Lot types, and all of the changes to the Subdivision and Subdivision Improvements so implemented by the Declarant pursuant hereto.
3. Page 58, Exhibit A Cielo Legal Description. **This details the >89 acres of land mass that is part of the Cielo subdivision.**
4. Page 64, Exhibit E List of Holdings For Cielo. **This details the tracts that are part of Cielo - tracts 100, 200, 300-306, 500-504, & 600-603.**

As you can see from the approved final plat, also attached, and the Declaration of Covenants, Conditions and Restriction for Cielo all tracts are considered part of Cielo and should be dedicated in its entirety. The Release and Termination of Cielo Easements & Restrictive Covenants filed on 21-Oct-2022 (Instrument 2022164599), the Release and Termination of Cielo Easements & Restrictive Covenants filed on 21-Oct-2022 (Instrument 2022165138), and the Amended And Restated Release And Termination Of Cielo Easements & Restrictive Covenants filed on 24-Oct-2023 (Instrument 2023160842) have 'materially and adversely changed the nature, size and quality of the Common Property' in Cielo which is explicitly prohibited by the Declaration of Covenants, Conditions and Restriction for Cielo.

This fiasco over Cielo property must end; it has consumed countless hours of City resources, individual resident resources, created disputes, impacted the perception of Venice as a whole, and so much more. Please stop this madness! Hold the developer accountable to the rules they themselves set, dedicate ALL of the Cielo tracts as initially presented and approved.

Thank you!

Lee Dube
268 Caserta Ct
Venice, FL 34275
603-489-7736



[Cielo Plat.pdf](#)

From: [Marshall Happer](#)
To: [City Council](#)
Cc: [Roger Clark](#); [Kelly Fernandez](#); [Jeffery A. Boone Esquire \(jboone@boone-law.com\)](#); [Kelly Michaels](#); [Mercedes Barcia](#); [Toni Cone](#); [Amanda Hawkins-Brown](#)
Subject: Re: Petition 23-42 FP Response to Disparaging Remarks by Neal Counsel and to 4-3 decision
Date: Saturday, December 2, 2023 6:03:35 PM

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Dear Mayor Pachota and members of the Venice City Council:

I am sure you know that I was disappointed with your 4-3 decision approving Petition 23-42 FP on Tuesday.

Before your meeting, as an individual resident of Venice, I sent you two emails to bring to your attention several issues I considered to be important relating to that Petition. As a courtesy, I copied Roger Clark, the City Attorney and Jeffrey Boone, attorney for the Petitioner. I apologized for not being able to attend in person on account of a medical appointment I could not change.

I have now had time to review the video of the meeting. I expected attorneys Jeffrey Boone and his associate Edward Vogler II on behalf of the Petitioner to disagree with the provisions of my email. I did not expect them to try to disparage me professionally even though my email was solely as an individual citizen. Boone accused me of “intentionally and deliberately” as a “strategy” of trying to confuse the issue of open space for you. Vogler said that “if someone with a law degree were to write those things I am shocked.”

I was disappointed at the attempted professional disparagement by Boone and Vogler and I will not seek to disparage them professionally. However, their statements require a response from me. At the Hearing on Tuesday, Boone referred for the first time to an Affidavit by a Neal engineer, dated November 27, 2023, which was not included in the attachments to the Meeting Agenda. I was delayed in preparing this response as I had to make a document request to obtain a copy of that Affidavit.

For the record:

I want each of you to know that my emails were intended to try to help you

understand what was happening to the open space in the Cielo subdivision and the Milano PUD and I want to assure each of you that the Boone and Vogler claims that I was “intentionally and deliberately” attempting to confuse you were incorrect and unfair.

1. I was trying to alert you that there were two important things involved in Petition 23-42 FP: (1) the request for the approval of a replat of the 10.42 acres the rezoning of which is the subject of a Writ of Certiorari judicial review and (2) the acceptance by the City of a dedication of open space that excluded both the 10.42 acres and another 10.9167 acres or 21.3367 total acres of platted open space north of the FPL easement in the Cielo subdivision.

2. The exclusion of that 10.9167 acres of open space from the dedication is tantamount to removing it as open space and making it available for future development for the first time based in part on the validity of two suspect Releases signed on behalf of the Cielo HOA by employees of the Petitioner. (Instrument 2022165138 dated October 1, 2022) and (Instrument 2023160842 dated October 24, 2023). When Attorney Vogler touted his Opinion on Title, he did not mention that he was acting as both the attorney for the Petitioner Neal company and as a commission agent for the title insurance company at the same time. A title insurance policy is only an insurance policy to cover damages, if any, sustained on account of a defect in the title up to the face amount of the policy. A title insurance policy cannot cancel a title defect, if there is one.

I respectfully submitted that no reasonable person would agree that the release of 21.3367 acres of valueless wetlands platted as open space and touted as a “Preserve” for the development of a regional shopping center, plus or minus a new apartment project, was in the “best interest” of the Cielo homeowners or did not “materially and adversely change the nature, size and quality of the Common Property” in the Cielo Subdivision as provided in Section 4.01(d) of the Cielo Covenants.

Based on the prior Neal engineer calculations, the Petition 22-38 RZ Staff Report had said: “The most recent amendment to the Milano PUD, petition no. 22-07RZ, reduced the total open space from 55.2% to 53%. This amendment proposes to reduce this further to 50.9%, still consistent with the 50% minimum set by the Comprehensive Plan in Strategy LU 1.2.16.6(c).”

This meant, of course that if the open space was further reduced by 10.9167 acres the open space would have been reduced to 48.828%+-.

The new Affidavit introduced for the first time at the Meeting changed the calculations of open space from 245.5573+- total open space acres to 294.87 open space acres to make it 58.69% of the revised total of 502.39 total acres instead of 48.828%+- based on the prior calculations made by Neal engineers. That was remarkably an increase of 49.3227 acres of open space just in time for your meeting. It made no distinction between open space and designated and platted open space marketed to homeowners as a Preserve.

Boone claimed that the open space requirement for the Milano PUD was a maximum of 50%. However, that is incorrect.

LDR 86-13(j) (1) Land use intensity; open space; dedication of land for municipal uses says: “A minimum of 50 percent of the PUD shall be open spaces.” It does not say that the maximum open space is 50% and it does not say that any designated open space on a subdivision plat in excess of 50% can be changed to future development. The only parcel on the 2019 Cielo subdivision plat (Plat Book 53-288) marked for Future Development was Tract 700 for the enlargement of the Laurel Road right of way so both the 10.42 acres and the 10.067 acres were designated and platted as open space and marketed to homeowners as a “Preserve”.

The 2017 Binding Master Plan (2017-25) stated that “where the PUD Master Plan identifies areas for residential uses, the developer shall have the option to convert such residential uses to open space uses.” It did not say that the developer reserved the right to convert designated and platted open space into additional development after all the homes in the Cielo subdivision have been sold to unsuspecting homeowners who thought they could rely on the recorded plat.

Disappointingly, you accepted the arguments of Boone and Vogler for the Petitioner and the result of your 4-3 decision on Petition 23-42 FP on Tuesday was in fact the approval of (1) the replat of the 10.42 acres the rezoning for commercial use which is subject to judicial review and (2) the removal of an additional 10.9167 acres north of the FPL easement from previously designated and platted open space. If the Court rules against the City in the Writ of Certiorari case, you have significantly exacerbated this issue.

With all due respect, I believe your decision pretty much renders any platting and designation of open space in excess of 50% as meaningless so that citizens purchasing homes are unable to rely on any plat and designation of open space. I hope you did not intend for that to be the case and that you will reflect on it.

Thanks for your consideration and understanding.

Marshall Happer
North Venice