

From: [Marshall Happer](#)
To: [Kelly Fernandez; City Council](#)
Cc: [Planning Commission; Roger Clark; Jeffery A. Boone Esquire \(jboone@boone-law.com\)](#)
Subject: Objections to Petitions 22-06RZ and 22-07-RZ
Date: Saturday, August 13, 2022 11:37:47 AM

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Dear City Attorney Fernandez and members of the Venice City Council.

The Milano PUD consisting of 537 acres with 291 acres of open space (55.2%) was approved for up to 1350 residential units and no commercial uses in 2014, 2017 and 2020. (Ordinance 2014-16, July 29, 2014, Ordinance 2017-25, March 10, 2017 and Ordinance 2020-40, December 8, 2020). At the time of the approvals of the Milano PUD, 55.2% of open space was offered and approved and the developer actually obtained some Modifications to Standards based on the open space included in the rezoning request.

Petitions 22-06RZ and 22-07RZ request approval for some kind of “fictional” or “virtual” transfer of 24.106 acres of the previously approved and platted Milano PUD open space to the GCCF PUD.

On July 3, I sent my objections to Petitions 22-06RZ and 22-07 RZ to the members of the Planning Commission with copies to each member of the City Council. I was disappointed that my objections were not even considered by the Planning Commission. So, to avoid that happening again when the matter is before the City Council, I am respectfully requesting the City Attorney to provide a legal opinion on the legality of the proposal for some kind of “fictional” or “virtual” transfer the subject 24.106 acres for the members of the City Council, the public and for me.

The 24.106 acres in question is located in the platted Fiore and Aria subdivisions and each is subject to restrictive covenants and is commons/open space under separate HOA corporations who are not parties to the Petition. For the Aria subdivision see Plat Book 52-428-438 Phase I and Covenants dated November 14, 2018, (Instrument #20181624290) with Aria Neighborhood Association, Inc., Plat Book 54-132-135 Phase II and Supplemental Covenants dated March 19, 2020 (Instrument #20200054761) and Plat Book 55-359-366 Phase III and Supplemental Covenants dated August 4, 2021 (Instrument #2021171124). For the Fiore subdivision see Plat Book 55-249-257 and Covenants dated February 11, 2021 (Instrument #2021132088) and Fiore Neighborhood Association, Inc.

Please note that on the Fiore Plat 55-249, the open space in the Fiore Subdivision is dedicated for 99 years.

Please also note that there is a concrete wall along the western line of the Fiore subdivision and the eastern line of the GCCF PUD.

1. Is it correct that the Aria Neighborhood Association, Inc., and the Fiore Neighborhood Association, Inc., have an interest in the commons and open space in their subdivisions and that they are not parties to the Petition?
2. Is it correct that under the provisions of Florida Real Estate law, the developers of the Fiore and Aria subdivisions cannot subdivide out and convey by deed the 24.106 acres of platted and developed open space to the owners of the GCCF PUD?
3. Is it correct that under the provisions of Florida Real Estate law, the developers of the Fiore and Aria subdivisions cannot convey the 24.106 acres orally to the GCCF PUD?

4. What is the legal basis, if any, for the reduction in the offered and approved 55.2% in platted open space in the Milano PUD?

5. What is the legal basis, if any, for approval of this proposed “fictional” or “virtual” transfer of 24.106 acres of open space real estate without any deed or anything?

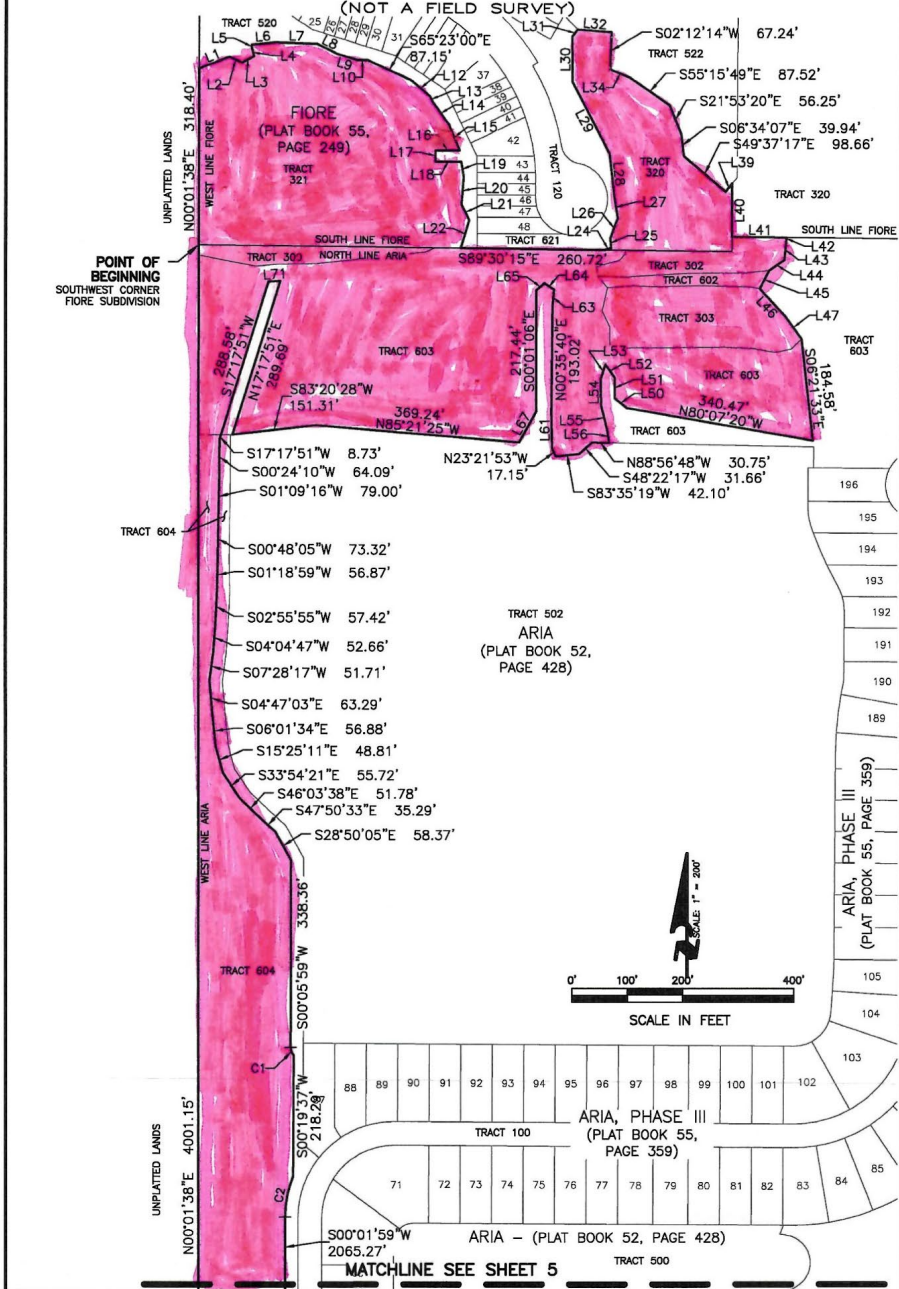
Thanks for your consideration.

Marshall Happer
Martellago Drive
North Venice, FL 34275

EXHIBIT "A" DESCRIPTION AND SKETCH

A PORTION OF SECTION 34, TOWNSHIP 38 SOUTH,
RANGE 19 EAST, SARASOTA COUNTY, FLORIDA

(NOT A FIELD SURVEY)



PREPARED FOR:
BORDER ROAD INVESTMENTS, LLC

REVISIONS:

DRAWN BY: BCR	DATE: 2/9/2022	SHEET: 3 OF 5	DWG: NEAL16_PUD DESCRIPTION-EXHIBIT.DWG	JOB: NEAL016
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ENGINEERING, LLC.

CONSULTING ENGINEERS & SURVEYORS, L.L.C.

8340 CONSUMER COURT
SARASOTA, FLORIDA, 34240
PHONE: (941) 377-8178
FAX: 378-3768