



City of Venice

401 West Venice Avenue
Venice, FL 34285
www.venicegov.com

Meeting Minutes City Council

Wednesday, May 24, 2023

9:00 AM

Council Chambers

**Continuation of the May 23, 2023 Meeting (Zoom Link:
<https://us02web.zoom.us/j/85137546969/> ID 851-3754-6969)**

[23-6108](#)

Meeting Instructions and Request to Speak Form

Broadcast

CALL TO ORDER

Mayor Pachota called the meeting to order at 9:00 a.m.

ROLL CALL

Present: 7 - Mayor Nick Pachota, Dr. Mitzie Fiedler, Vice Mayor Jim Boldt, Ms. Helen Moore, Mrs. Rachel Frank, Mr. Dick Longo and Mr. Rick Howard

ALSO PRESENT

City Clerk Kelly Michaels, City Manager Ed Lavallee, City Attorney Maggie Mooney, Assistant City Manager James Clinch, Deputy City Clerk Mercedes Barcia, and Recording Secretary Amanda Hawkins-Brown, and for certain items on the agenda: Planning and Zoning Director Roger Clark, and Public Information Officer Lorraine Anderson.

PLEDGE OF ALLEGIANCE

Mayor Pachota lead the Pledge of Allegiance.

RECOGNITION

City Manager Lavallee recognized Lorraine Anderson as the "Communicator of the Year" as awarded by the Florida Municipal Communicators Association (FMCA).

I. PUBLIC HEARING

ORDINANCES - FIRST READING

ORD. NO.
2023-11

An Ordinance of the City of Venice, Florida, Granting Zoning Map Amendment Petition No. 22-38RZ for the Milano Planned Unit Development (PUD) Located at Laurel Road and Jacaranda Boulevard, by Changing the Land Use Designation for an Approximately 10.42 Acres Parcel from Open Space to Commercial and Amending the Milano PUD Binding Master Plan (BMP) to Allow for Commercial Development; Providing for Repeal of all Ordinances in Conflict Herewith; Providing for Severability; and Providing an Effective Date (Quasi-judicial)

Mayor Pachota spoke on yesterday proceedings and confirmed this is continuation of the Public Hearing.

City Attorney Mooney noted she was filling in for City Attorney Fernandez, spoke on the day's proceedings, and questioned Council members concerning ex-parte communications and conflicts of interest since yesterday's meeting. There were none.

Recess was taken from 9:10 a.m. to 9:21 p.m.

Attorney Boone questioned Planning and Zoning Director Roger Clark, if presentation changed after cross examinations, clarification of Final Plats, timing of Final Dedication, additional development rights in a Planned Unit Development (PUD), ability to amend a PUD, and ability to replat.

Pat Neal, Applicant, being duly sworn, presented company information, relationship with community, uncompleted portions of the Milano PUD, contribution to philanthropic organizations, benefits of location, traffic, wetland, mitigation, compliance with Comprehensive Plan, communications with public and current projects in area.

Ed Vogler, Consultant, being duly sworn, presented credentials, work done on current development, opposition's approach, real estate market changes due to market changes, historical pattern of commercial developments following residential developments, disclosures provided in Homeowners Association documents, rights of the homeowners and the developer, amendment being for land use change only, consistency with State Statutes, Land Development Code, and Comprehensive Plan, title to property, ownership, rights to replat, PUD Declaration Section 12.04 Scheme of Development and Construction, 50% open space requirement, open space dedications, ability to replat, history of property replats in Milano PUD, and Florida State Law Chapter 7.20.

James Collins, Planning Consultant, being duly sworn, presented credentials, Comprehensive Plan compliance, Land Development Code consistency, compatibility analysis, Code Section 86.130r, open space requirement, unified control, neighborhood uses, proposed plan map, 4th

amendment to Milano PUD, distance to residences, withdraw of southern buffer exception, neighborhood versus regional uses, transportation analysis, and adding stipulation on commercial size.

Alex Hoffner, Environmental Consultant, being duly sworn, presented credentials, 500 acres of wetland in Milano PUD, map of preserved wetlands, wildlife corridors, wildlife utilization, impact to wetland from proposed project, degradation of wetland, previous impact to wetland, assessment of functionality, and Myakka Mitigation Bank credits.

Frank Domingo, Traffic Consultant, being duly sworn, presented credentials, traffic study submitted, requirement of Laurel Road widening, Veneto Boulevard configuration approved by Sarasota County, pursuing a traffic signal, reduction of trips crossing I-75, proximity of neighborhood shopping centers, traffic reduction, destination study, PM peak period trips, and number of dwelling unit under development in area.

Mr. Neal spoke on history of PUD developments, communication with oppositions, meetings held to discuss proposal, 271 electronic petitions received, 339 paper petitions received, polling done, and consistency and compatibility with neighborhood.

Recess taken from 10:26 a.m. to 10:35 a.m.

Attorney Lobeck cross examined Mr. Domingo regarding updated map on future developments, testimony regarding reduction of trips, reason for content provided, intent to serve PUD or surrounding area, traffic analysis zone, purpose of traffic analysis, methodology for analysis, and zone analysis including neighborhoods. Attorney Boone objected witness should be allowed to explain further. Attorney Lobeck continued to question regarding area of cutoff for analysis. Attorney Boone objected to form of question. Attorney Lobeck continued to question regarding neighborhoods on map having impact on analysis.

Recess was taken from 11:02 a.m. to 11:08 a.m.

Attorney Lobeck continued cross examination of Mr. Domingo regarding Veneto Boulevard intersection, use by Venice Golf and River Club (VG&RC) residents, safety of road design, review comments by Sarasota County, analysis of traffic on Jacaranda Boulevard and Laurel Road, analysis including VG&RC entrance on Veneto Boulevard, whether analysis included proposed commercial center traffic through the intersections, and safety concerns for intersections. Attorney Boone objected question asked and answered. Attorney Lobeck continued to question regarding findings for impact of shopping center on the Veneto

Boulevard intersection, two way stop control, need for traffic light, narrative of Laurel Road Investment LLC document, and denial of request for traffic signal. Attorney Boone objected asked and answered. Attorney Lobeck continued to question regarding crash potentials on road configurations, surrounding developments contributing to traffic. Attorney Boone objected to form of questions. Attorney Lobeck questioned if proposed shopping center is to serve the PUD and surrounding area. Attorney Boone objected to form of question. Attorney Lobeck continued to question regarding reason for location. Attorney Boone objected to scope. Attorney Lobeck continued to question regarding the traffic generation based on shopping center and other commercial, commercial uses in the PUD amendment, traffic study intent to measure the impact of this PUD amendment, stipulation regarding development size being included in the PUD amendment, analysis covering other commercial uses, and measuring maximum potential traffic impact.

Recess was taken from 11:38 a.m. to 11:47 a.m.

Gary Scott, cross examined Mr. Domingo regarding experience with traffic analysis similar to the amendment, analysis including traffic outside of Milano PUD, promotional material stating reduced traffic by 27%, reduction of traffic on Laurel Road and Jacaranda Boulevard, potential failure on Jacaranda Boulevard, February 28, 2023 email from City's consultant to Director Clark, planned number of lanes at Veneto Boulevard intersection, reason for denial of traffic light request, whether decline due to proximity of another street light, Streetlight Insight program methodology, reduction in traffic crossing I-75, locations of traffic reductions, report conclusion, and location of traffic diverted from south of I-75. Attorney Boone objected as mischaracterization. Mr. Scott continued to question regarding commercial intensity of the two existing grocery centers sites compared to proposed center, policies considered in analysis, and consideration of City's Comprehensive Plan.

Attorney Boone questioned Mr. Domingo regarding ability to develop site with just approved PUD amendment, and traffic study done at site and development. Mr. Scott objected to leading questions. Attorney Boone continued to question regarding impact of commercial uses on traffic generation, increased traffic on Laurel Road and Jacaranda Boulevard regardless of proposed commercial development approval, potential routes and entrances to proposed shopping center, and benefits of proximity of origins to destinations.

Attorney Boone requested order of witnesses for cross examination and estimated times.

Lunch break taken from 12:20 p.m. to 1:34 p.m.

Mayor Pachota clarified that those approved as an affected party will not speak again during public comment, time frames for cross examination, potential continuation of hearing beyond today and meeting decorum.

Council questioned Mr. Domingo regarding alternate exits for VG&RC, developments west of I-75, proximity of proposed commercial for upcoming developments compared to existing centers, a gas station's impact to traffic, distance to shopping center at Venice Avenue and Pinebrook Road, average distance a person travels past goods in neighborhood for services, trend of neighborhood scaled developments, statistics on negative impact of commercial, and pm peak trip percentages.

Attorney Lobeck cross examined Mr. Neal regarding shopping center being needed and wanted, selection of residents polled, conclusion from poll, reason for poll, intent to serve the needs of the Milano PUD, and also serve needs of the surrounding areas. Attorney Boone objected to form of question. Attorney Lobeck continued to question regarding a mass mailed letter, Milano Binding Master Plan, and number of dwellings units intended to serve. Attorney Boone objected for asked and answered. Attorney Lobeck questioned regarding testimony from Planning Commission meeting.

Recess was taken from 2:21 p.m. to 2:25 p.m.

Attorney Boone made a standing objection, to any reading of testimony that is not complete, for mischaracterization.

Attorney Lobeck continued cross examination of Mr. Neal regarding testimony at Planning Commission meeting, being only feasible site for center's location, map used during testimony, trips to and from VG&RC, Section 86-130r compliance, statement of "need for commercial convenience store", and map used in presentation. Attorney Boone objected on relevance. Attorney Lobeck continued to question regarding intended conclusion of page 16 and 17 of presentation. Attorney Boone objected for asked and answered. Attorney Lobeck continued to question regarding presentation on traffic reduction points, advice from legal council on marketing, and testimony regarding enforcement of policy. Attorney Boone objected to form of question.

Recess was taken from 2:48 p.m. to 3:01 p.m.

Mr. Scott cross examined Mr. Neal regarding a January 15, 2022 Sarasota

Herald Tribune newspaper article, Developer Agreement Certificate of Concurrency, convenient shopping currently available, advertisement for Aria subdivision, marketing for home sales, and ethical obligations. Attorney Boone objected to form of question. Mr. Scott continued to question regarding marketing materials since 2017, and July 2017 Master Plan land uses. Attorney Boone objected for scope. Mr. Scott continued to question regarding previous representation of land being used as preserve, and Cielo Preliminary Plat. Attorney Boone objected for relevance. Mr. Scott continued to question regarding Final Plat of Cielo. Attorney Boone made a standing objection to any inquires for plats due to relevance. Mr. Scott continued to question regarding marketing material including a map of Cielo, survey conducted by Seth Thompson, use of Cielo map, and lots platted in the Milano PUD. Attorney Boone objected for relevance. Mr. Scott continued to question regarding map presented by Mr. Kenny.

Dr. Fielder called Point of Order for Mr. Scott presenting issues related to Ceilo but being registered as a VG&RC resident affected party. City Attorney Mooney clarified issues presented have legal bearing on factors associated.

Attorney Boone restated his objection for questions relating to marketing material for buyers for Cielo and Milano.

Mr. Scott continued cross examination of Mr. Neal regarding first notice for proposed shopping center, first public workshop, and new homeowner documentation provided after workshop. Mr. Neal responded with oversight in updating new homeowner documentation, images from Mr. Kenny's back yard, and USB given with homeowners documents. Mr. Scott continued to question Mr. Neal regarding Agreement Regarding Open Space Restriction and Covenant Pursuant to City of Venice Land Development Code, and Release and Termination of Cielo Easements and Restrictive Covenants. Attorney Boone objected that documents were not part of Mr. Neal's testimony. Mr. Scott continued to question in regards to ownership of parties involved in documents.

Recess was taken from 3:41 p.m. to 3:45 p.m.

Council questioned Mr. Neal regarding southern buffers, Cielo homeowners options if unsatisfied with buffering, communities with gates, and homeowners documents.

Attorney Boone questioned Mr. Neal regarding testimony at Planning Commission, completed and pending developments in place at time of Venice Industrial Commerce Associates (VICA) purchase, and right to

amend reserved at the Milano PUD approval hearing.

Discussion took place regarding extending meeting or continuing to another meeting, remaining cross examination, affected parties presentations, public comment, and rebuttal, and completing cross examinations today

Recess taken from 4:07 p.m. to 4:13 p.m.

Attorney Lobeck cross examined Mr. Vogler regarding the title company insurance, current title owner, contract conditions for sale to grocery company, providing the title examination, not insuring title without development rights, only item being insured is the title, owner of record, required signatures for a replat, title insurance being subject to all instruments of public record, a plat being a public record, integrity of title insurance, risk of issuing insurance, and reason for risk. Attorney Boone objected due to relevance. Attorney Lobeck continued to question regarding past replats, Florida Statute exception, and replating to manage phases of development. Attorney Boone objected due to relevance. Attorney Lobeck continued to question regarding examples of replats, Attorney Title Services recommendation on replats. Attorney Boone objected to improper question as Attorney Lobeck is providing testimony. Attorney Lobeck continued to question regarding instances where replats were filed to complete area designated for future development, areas reserved for development on Cielo Final Plat, properties in Cielo Final Plat conveyed to HOA, the proposed development being inconsistency with the Cielo Final Plat, signatures required to replat, other properties in Milano subject to replat, rules to prevent a developer from developing open space, homeowners interest in wetland, plat being final till another replat approved, whether Cielo's plat is a final plat, testimony regarding open space dedication being due at time of the final plat, how often you can replat, Fiore requirement for open space dedication, and staff review when application submitted. Attorney Boone objected for relevance. Attorney Lobeck continued to question testimony from Planning Commission meeting regarding replat application, and city engineering response. Attorney Boone objected for relevance due to review comment from another application. Attorney Lobeck continued to question regarding other instances in Milano PUD where developer has requested to convert open space with development without offset. Attorney Boone objected for mischaracterization of process.

Mr. Scott cross examined Mr. Vogler regarding who owns the open space, definition of open space in LDR, past replats in PUD without homeowners signatures, replats in Aria, Vecenza, and Milano. Attorney Boone objected that Vecenza is not part of Milano PUD. Mr. Scott continued to question

regarding developer's reserved rights in Cielo Covenants. Attorney Boone objected that Mr. Scott's affected party status is due to being a resident of VG&RC and question are in regards to Cielo. Mr. Scott continued questions regarding covenants for Cielo, Form 4.01(d), full disclosure, testimony at Planning Commission, and knowledge of the appendix to Declaration of Covenants. Attorney Boone objected to Mr. Scott's questioning since he lives at the VG&RC and not Cielo. Mr. Scott continued questions regarding developers rights listed in Covenants, removing 10.2 acres from the Covenants, Release and Termination of Cielo Easements & Restrictive Covenants, owner of parties involved in release, determination of releasing the 10.2 acres benefited the Cielo homeowners, and details of members of the Cielo HOA. Attorney Boone objected to Mr. Scott's questioning and commented on his affected party relevance under residing in VG&RC.

Recess was taken from 5:23 p.m. to 5:30 p.m.

Attorney Loeck objected to Attorney Boone's objection noting Mr. Scott entitlement to explore all avenues available. Mr. Vogler responded to Mr. Scott's questions regarding board member and other homeowner's knowledge of release. Attorney Boone objected for facts not in evidence. Mr. Scott continued to question Mr. Vogler regarding his testimony at the Planning Commission, 99 year open space dedication timeframe, Cielo open space protection, property in amendment listed as open space on Cielo Final Plat, and definition of open space. Attorney Boone objected to the relevance of the question.

Attorney Boone questioned Mr. Vogler regarding ability to replat a Final Plat with a 50 percent open space restriction.

Council questioned Mr. Vogler regarding the difference between common property and open space, owner of record for the Milano PUD, if 10.4 acres of amendment are need for open space requirement, Council's ability to resolve opposition's concerns for deceptive practices by developer, turnover process in a development, if turnover is completed in Cielo, current percentage of homeowner's ownership in Cielo, and clarification of residents on the board.

Recess was taken from 5:50 p.m. to 6:35 p.m.

City Attorney Mooney spoke on ex-parte communications and asked Council for anything to report from breaks that day. Dr. Fiedler commented on a photo taken of her having a conversation with a gentleman in the audience and noted for the record it was not related to the quasi judicial hearing matter.

Attorney Lobeck waived cross examination of Mr. Collins.

Mr. Scott cross examined Mr. Collins regarding April 27, 2023 report, compatibility with surrounding neighborhood, proximity of homes nearest to proposed commercial site as shown on Google map, basis for statement of commercial center benefiting the neighborhood, it benefiting only those who want it, tradeoff for the benefit, traffic on Laurel Road & Jacaranda Boulevard, light pollution, and interpretation of traffic consultant testimony. Attorney Boone objected for mischaracterization of testimony. Mr. Scott continued to question regarding intention of proposed Publix to serve more than PUD, report statement regarding proposal's use of only 16% of the total 5% of allowable commercial use in PUD as evidence of intent to serve PUD and not surrounding area, significance of calculation, square footage of proposed Publix, limits of store size, research conducted on commercial uses within other PUDs, history of nine acres Mr. Collins referenced in the VG&RC Binding Master Plan, research on commercial development on Pinebrook South, awareness of Pinebrook South's commercial use part of pre-annexation agreement, and familiarity of code Section 20-9-20.

Attorney Boone had no redirect for Mr. Collins.

Council had no questions for Mr. Collins.

Recess was taken from 6:57 p.m. to 7:02 p.m.

Attorney Lobeck cross examined Mr. Hoffner regarding proposed development, and would PUD amendment change land designation. Attorney Boone objected amendment does not approve development. Attorney Lobeck continued to question regarding Policy O.S. 1.3.1, and proposed development avoiding impact to wetland. Attorney Boone objected for ask and answered. Attorney Lobeck continued to question regarding development minimizing impacts to wetlands. Attorney Boone objected for relevance. Attorney Lobeck continued to question regarding definition of minimize, and if the current Milano PUD Master Plan minimized impact to wetland. Attorney Boone objected for asked and answered. Attorney Lobeck continued to question on how more development minimizes impact to wetland, basis for conclusion, testimony on inability to avoid wetland impact, proposed commercial development not being economically feasible, qualification as economist, individual who advised on economical feasibility, City consultant's review, March 16, 2023 memorandum from Earth Resources, Earth Resources being the environmental expert for Wade Trim, Policy 1.3.1, Mr. Hoffner's association with Kimley-Horn, Earth Resources response regarding quality of wetland consideration for avoidance and minimization, interpretation that Policy

1.3.1. only applies to development on high quality wetlands, wetlands eliminated/destroyed by proposed amendment being over six acres and two-thirds of site, wetlands currently having 60% of historic value, current quality of wetland, and can commercial development be designed to enhance and protect wetlands. Attorney Boone objected for form of question and cause for speculation. Attorney Lobeck continued to question regarding intention of providing expert opinion to negatively impacting wetlands. Attorney Boone objected to form of question. Attorney Lobeck continued to question regarding Mr. Hoffner's work also involving protecting and restoring wetlands, and possibility to design commercial development to enhance current wetlands. Attorney Boone objected to duplicate question. Attorney Lobecked question regarding ability to implement policy when development utilizes full site for commercial use. Attorney Boone objected calls for speculation and assumes facts not in evidence.

City Attorney Mooney advised on methodology of line of questioning.

Attorney Lobeck clarified inquiry of how much wetland would be left in Binding Master Plan, and wetlands being replaced with commercial designation. Attorney Boone objected for form of question and beyond scope.

City Attorney Mooney commented on intent of questions being asked and repetitiveness.

Attorney Lobeck continued cross examination of Mr. Hoffner regarding ability of developer to minimize impact by keeping existing wetland.

Recess was taken from 7:35 p.m. to 7:40 p.m.

Mr. Scott cross examined Mr. Hoffner regarding the five open space strategies identified by City consultant as non-compliant with Comprehensive Plan, technical concerns addressed in last report, last report received from City's consultant, conversations before March 16, 2023 report, City consultant's response to Mr. Hoffner's resolutions for technical concerns, description of wetland ineffectiveness, Unified Mitigation Assessment Method (UMAN) assessment, time assessment completed, meaning of categories on the assessment, assessment conclusion, wetland being totally degraded, wetland capability of sustaining development, wildlife expected to see in wetland, mitigation steps taken, Myakka Mitigation Bank, Comprehensive Plan intent to protect the wetlands, interpretation of Comprehensive Plan intent for protect wetland in City limits, benefit to wetlands besides its functions, residents ability to enjoy the wildlife, testimony at Planning Commission regarding previous degradation of wetland, and Myakka Mitigation Bank proximity to City.

Attorney Boone questioned Mr. Hoffner regarding historical size of wetland referencing aerial map of the VG&RC, Laurel Road widening impact to wetland, and resident objections regarding wildlife during VG&RC development.

Council questioned Mr. Hoffner on number of acres of wetland in the Milano PUD, percentage of wetlands being impact by proposal, and advantages of having credits to the Myakka Mitigation Bank versus preserving the six acres.

Recess was taken from 8:04 p.m. to 8:12 p.m.

Attorney Lobeck had no cross-examination for Planning and Zoning Director Clark.

Mr. Scott cross examined Director Clark regarding agreement presented yesterday. Attorney Boone objected for scope.

City Attorney Mooney clarified that cross examination is for testimony presented today only.

Attorney Boone had no redirect for Director Clark.

Council had no questions for Director Clark.

Discussion followed regarding continuance date, Clerk's suggestion for June 15th and 16th as earliest dates in light of publication requirements, coordination with summer break, second reading for July 10th and 11th, ability for council member to participate by Zoom, Mrs. Frank being at a conference on June 16th, alternative dates, and meeting times.

Attorney Lobeck objected to not all members of Council being present at next meetings.

City Attorney Mooney address Attorney Lobeck objection and confirmed it is not a due process violation and Council can conduct hearings with quorum of members present.

There was consensus to continue the public hearing for first reading to June 15, 2023 and June 16, 2023 if necessary. The second reading will be continued to July 10, 2023 and July 11, 2023 if necessary.

II. ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 8:24 p.m.

ATTEST:

Mayor - City of Venice

City Clerk