

Ex. 1

TECH COMPLIANCE AND CONCURRENCY REVIEW**S&J Properties****PET. NO. 07-07RZ.1****CONCURRENCY REVIEW MUST BE COMPLETED IN CONJUNCTION WITH TECHNICAL COMPLIANCE FOR AFFECTED DEPARTMENTS**

Department	CONCURRENCY REVIEW	Initial Submittal		REVIEW OF RESUBMITTAL NO. 1		REVIEW OF RESUBMITTAL NO. 2	
	DEADLINE:	Date:	11/3/2015	Date:	12/18/2015	Date:	
	Concurrence Determination	DEADLINE:	11/23/2015	DEADLINE:	1/6/2016	DEADLINE:	
		Technical Compliance Confirmation	Technical Compliance NOT Achieved	Technical Compliance Confirmation	Technical Compliance NOT Achieved	Technical Compliance Confirmation	Technical Compliance NOT Achieved
Public Works	<i>4/18/16</i>	<i>4/18/16</i>					
Utility Department		MH					
Building Department	N/A	GS 11/12/15					
Engineering		JC 11/11/15					
Fire Department	N/A	JS 11/17/15					
Police Department	N/A						
Planning & Zoning (including Transportation)			SP 11/30/15		<i>SP 3/4/16</i>	<i>SP 3/4/16</i>	
Sarasota County Forestry Department	N/A	<i>By 11/11/15</i>					
School Board	N/A	<i>By 11/11/15</i>					
Historical	N/A	N/A					

ZONING AMENDMENT

Rezone Petition No. 16-1RZ

Owner: Ronald J. Siegrist Revocable Living Trust, Siegrist Ronald J. (TTEE)

Addresses: 490, 492, 494 and 505 Hauser Lane

Parcel ID #s: 0407-09-0016 & 0407-09-0017

Parcel Size: 73,599 square feet/1.69

Existing Zoning District: Sarasota County Residential, Multiple-Family 1 (RMF-1)

Proposed Zoning District: City of Venice Residential, Multiple-Family 4 (RMF-4)

Future Land Use Designation: Seaboard Sector, Planning Area G

Summary of Proposed Rezone Petition

- **In 2002 the city involuntarily annexed the subject property**
- **The property has retained its Sarasota County RMF-1 zoning since the 2001 involuntary annexation**
- **Due to the involuntary annexation the city needs to give the subject property a City of Venice zoning designation**
- **On February 9, 2016, pursuant to Section 86-41(d), City Council approved a request by the owner to waive the requirement of conducting a public workshop**

Aerial Photograph (Staff Report Map 1)



Photographs of On-Site and Off-Site Conditions



**View of Hauser Lane from
US 41 Bypass; motel on the
left, carwash on the right**



**Warehouse/storage building
abutting the east side of the
subject property**



Two-family residential structure on the southern parcel



One of two single-family residential structures on the northern parcel



The second single-family residential structure on the northern parcel



Single-family residential structure abutting the subject property to the south and west



Residential condominium development abutting the subject property to the west



Single-family property across Hauser Lane from the subject property



Restaurant abuts the subject property to the east

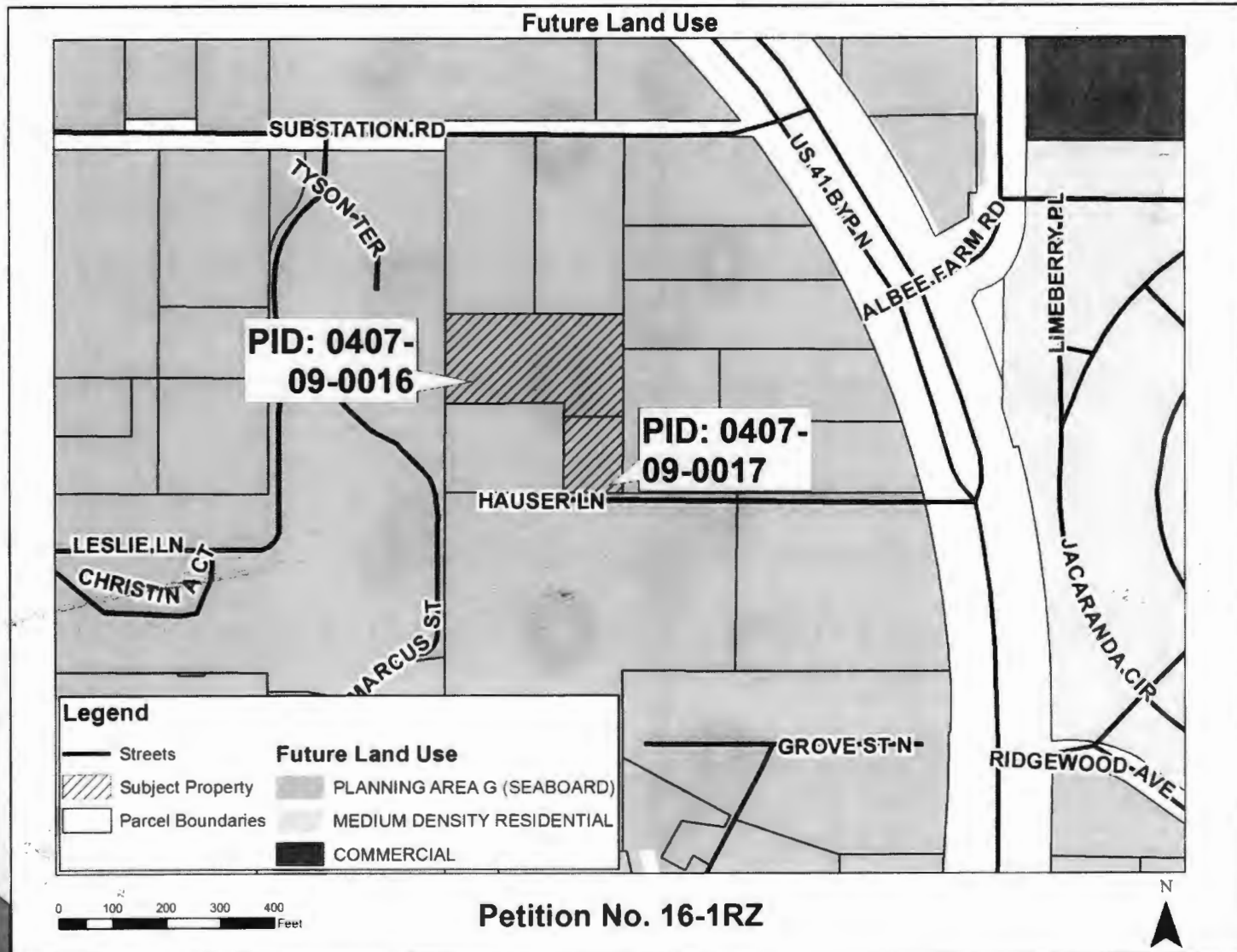


Board of Realtor's property on Substation Road abuts the subject property to the north

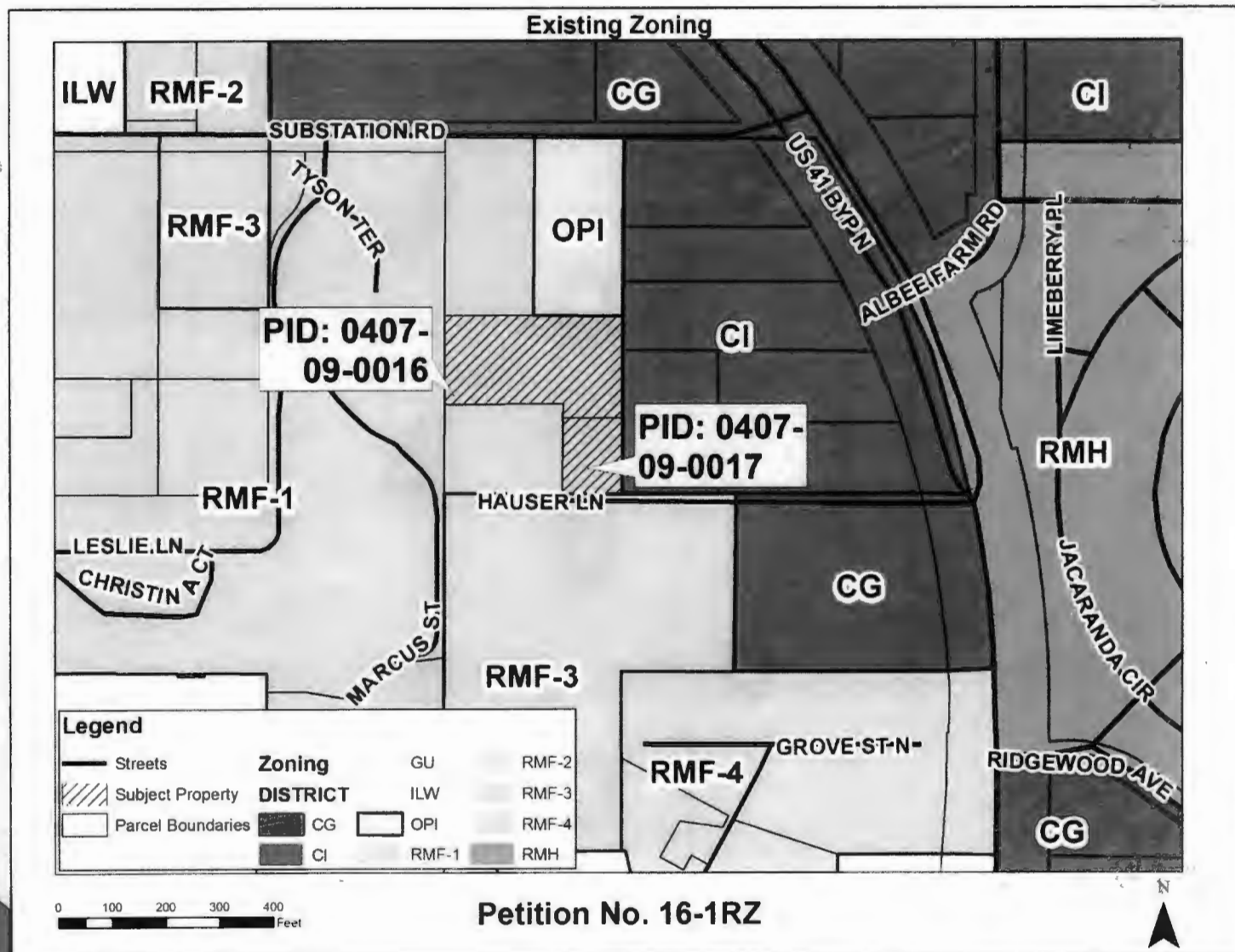


Multi-family residential property on Substation Road abuts the subject property to the north

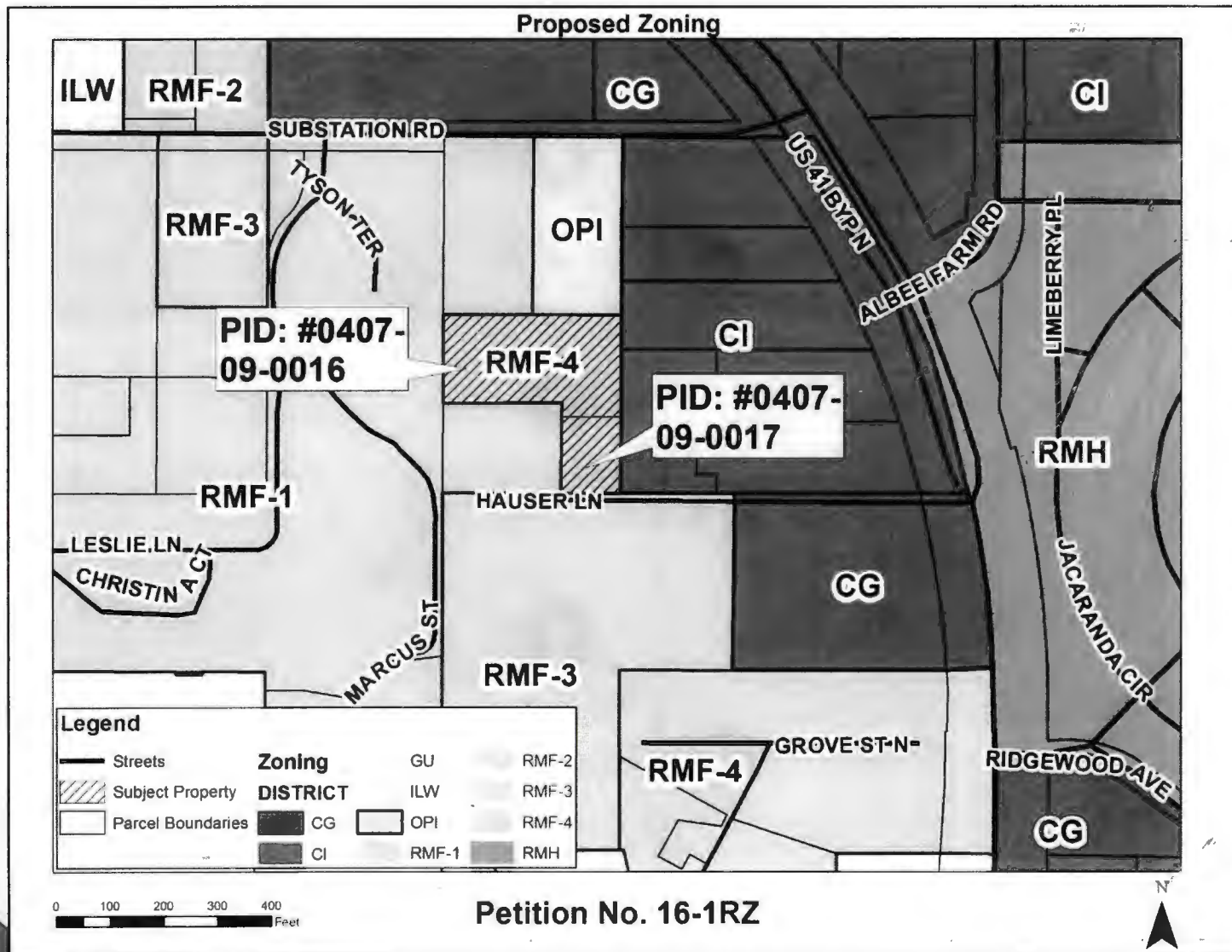
Future Land Use Map (Staff Report Map 2)



Existing Zoning Map (Staff Report Map 3)



Proposed Zoning Map (Staff Report Map 4)





Consistency with the Comprehensive Plan

The rezone petition needs to be found consistent with the comprehensive plan, which is primarily evaluated in the following two ways:

- A. Consistency with the property's future land use map designation**
- B. Consistency with the comprehensive plan policy on land use compatibility**

A. Consistency with Future Land Use Map Designation

- The subject property has a future land use map designation of Seaboard Section, Planning Area G.
- The planning intent of the sector is to make the best use of the central location, water-oriented resources, and grid-pattern street network by establishing a walkable mixed use community sector. The intent is further specified to foster an integrated sector that includes housing opportunities, professional businesses and offices, service businesses, recreation and service resources, restaurants, water-oriented activities, and parks and public spaces.
- Policy 16.14A establishes a max. residential density range of up to 18 units per acre.
- Policy 16.14B establishes a max. residential density average that is not to exceed 18 units per acre.

B. Land Use Compatibility

E. Protection of single-family neighborhoods from the intrusion of incompatible uses (staff report pages 12 and 13)

Staff planning analysis:

- **There is no residential, single-family zoning in the area surrounding the subject property.**
- **The subject property abuts three non-residential properties zoned CI and OPI.**
- **All other abutting properties are zoned RMF, including the property to the south zoned RMF-3.**
- **Within 300 feet of the subject property is a RMF-3 zoned property and a RMF-4 zoned property.**

B. Land Use Compatibility (staff report p. 13)

- F. Prevention of the location of commercial or industrial uses in areas where such uses are incompatible with existing uses.**

This consideration is not applicable to the subject rezone petition. Commercial and industrial uses are not permitted in the proposed RMF-4 district.

- G. The degree to which the development phases out nonconforming uses in order to resolve incompatibilities resulting from development inconsistent with the current comprehensive plan.**

The permitted uses in the RMF districts includes "one single-family dwelling per lot". There are two single-family dwellings on the larger northern parcel. Redevelopment of the subject property in accordance with the RMF-4 district regulations provides the opportunity to eliminate the existing non-conforming uses.

- H. Densities and intensities of proposed uses as compared to densities and intensities of existing uses.**

The information and planning analysis for this consideration is provided in the report on consideration E.

Staff Summary/Findings of Fact

Finding of Fact (Comprehensive Plan): The proposed RMF-4 district is consistent with the Seaboard Sector planning intent, and the sector's maximum density standards. The proposed RMF-4 district can be found compatible with adjacent properties. Land use compatibility will be further evaluated when a specific development proposal for the subject property is submitted. In summary, the proposed RMF-4 district is consistent with the comprehensive plan.

Finding of Fact (Concurrency): Currently there are adequate public facilities available to accommodate the increased development potential from the proposed RMF-4 zoning. Further concurrency analysis and the issuance of a certificate of concurrency will be required prior to development of the subject property.

Findings of Fact (Applicable Rezoning Considerations): Based on the evaluation provided in the staff report, sufficient information has been provided to make findings of fact for each of the rezoning considerations contained in Section 86-47(f) a-p, of the Land Development Code.

ZONING AMENDMENT

Rezone Petition No. 16-2RZ

Owners: George A. Ronald and Noreen M. Ronald

Agent: Ronald J. Siegrist

Address: 501 Hauser Lane

Parcel ID #: 0407-09-0015

Parcel Size: 36,820 square feet/0.845 acres

Existing Zoning District: Sarasota County Residential, Multiple-Family 1 (RMF-1)

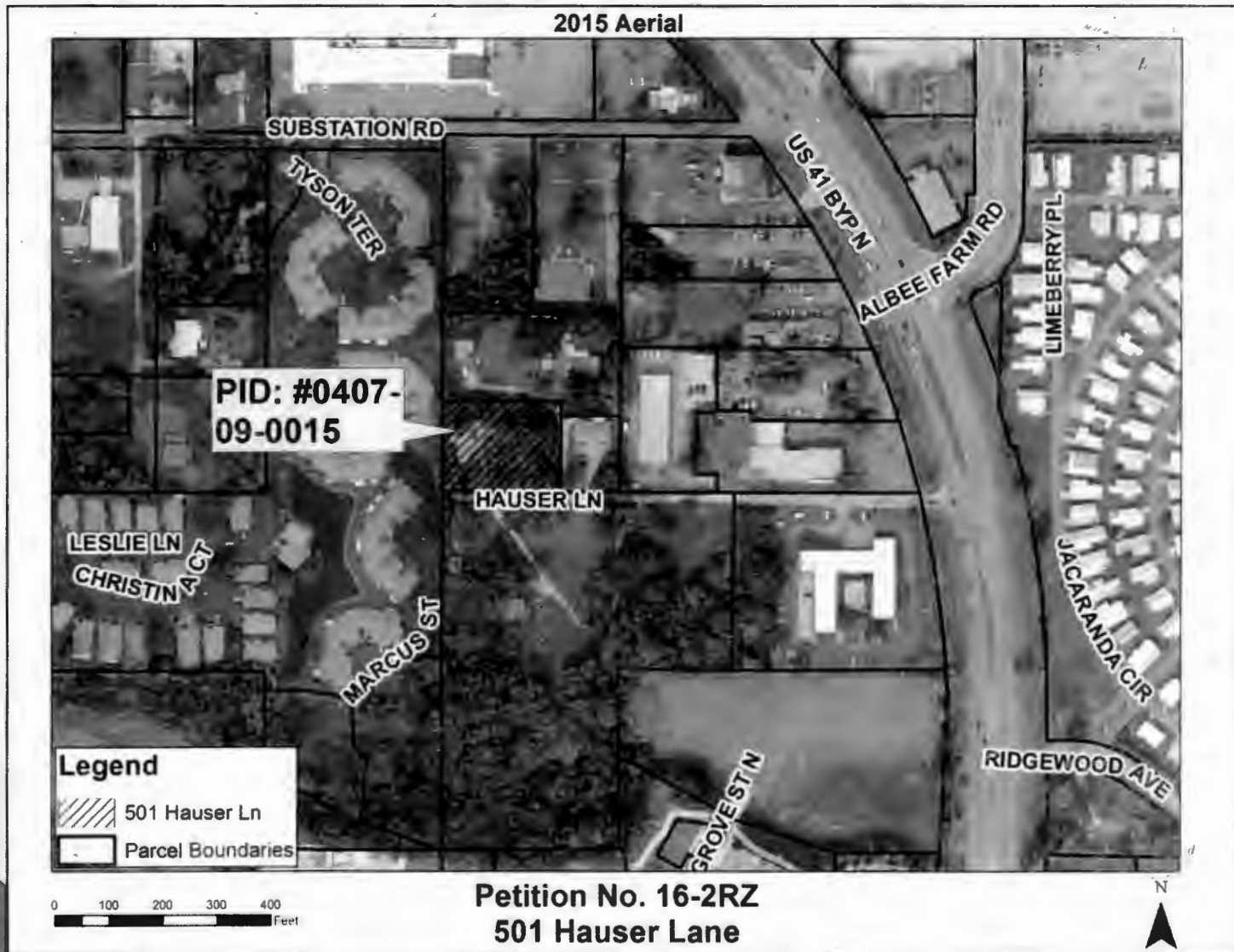
Proposed Zoning District: City of Venice Residential, Multiple-Family 4 (RMF-4)

Future Land Use Designation: Seaboard Sector, Planning Area G

Summary of Proposed Rezone Petition

- **In 2002 the city involuntarily annexed the subject property**
- **The property has retained its Sarasota County RMF-1 zoning since the 2001 involuntary annexation**
- **Due to the involuntary annexation the city needs to give the subject property a City of Venice zoning designation**
- **On February 9, 2016, pursuant to Section 86-41(d), City Council approved a request by the owner to waive the requirement of conducting a public workshop**

Aerial Photograph (Staff Report Map 1)





**View of Hauser Lane from US 41 Bypass;
motel on the left, carwash on the right**



**Single-family residence on
subject property**



**Two-family residential structure on
abutting property to the east**



**One of two single-family residential
structures on the abutting property
to the north**



**The second single-family
residential structure on the
abutting property to the north**

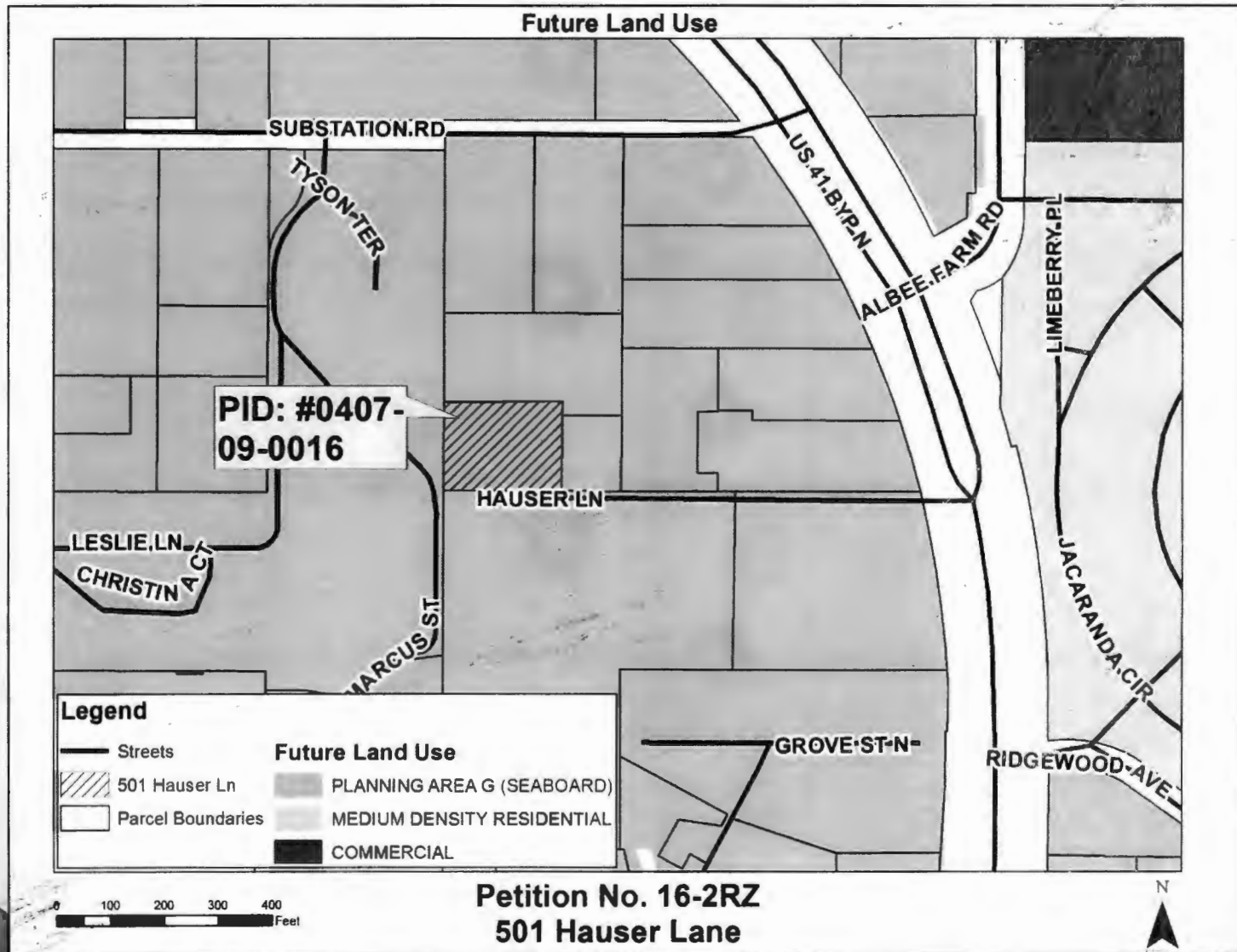


**Residential condominium
development abutting the
subject property to the west**

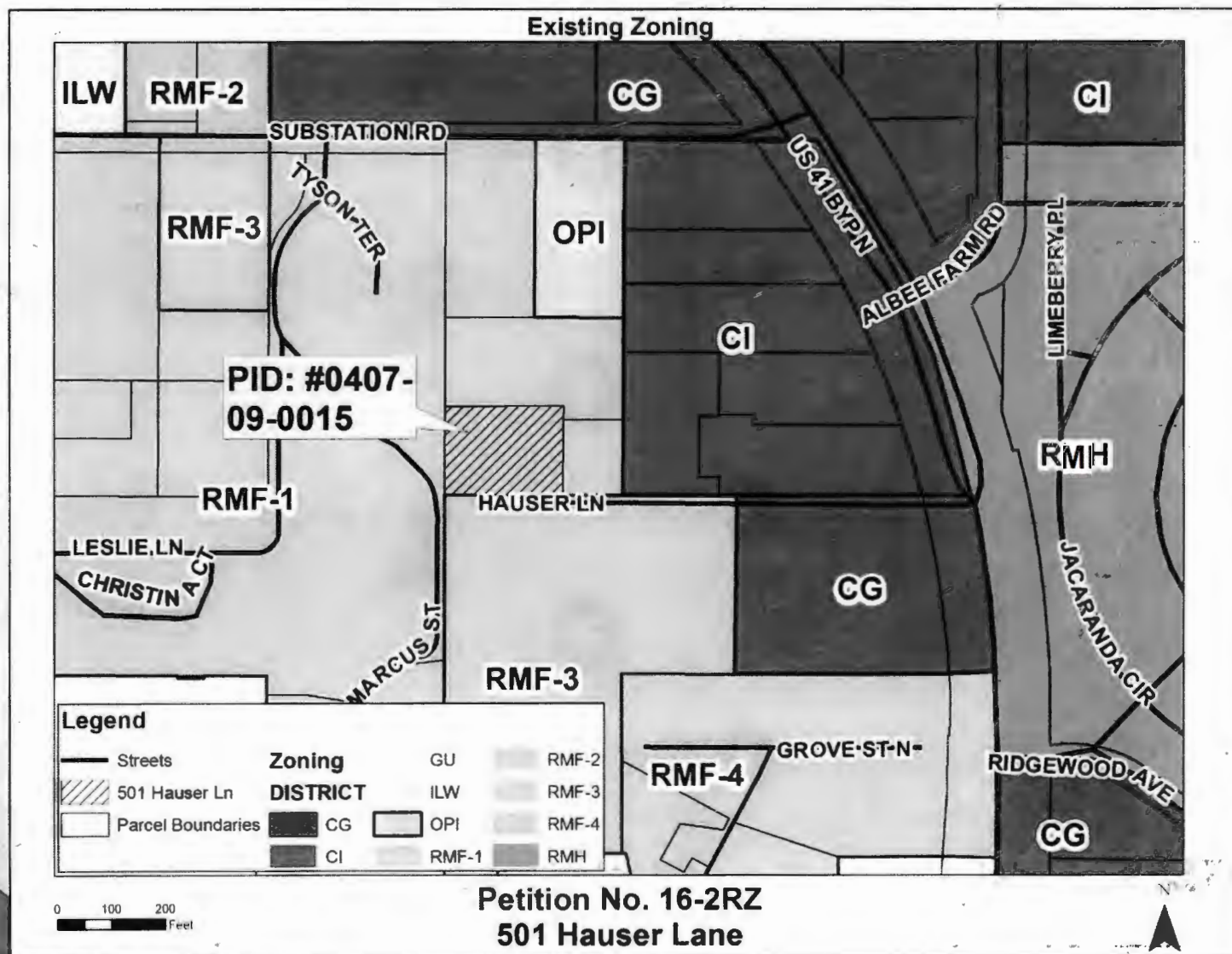


**Single-family property
across Hauser Lane from the
subject property**

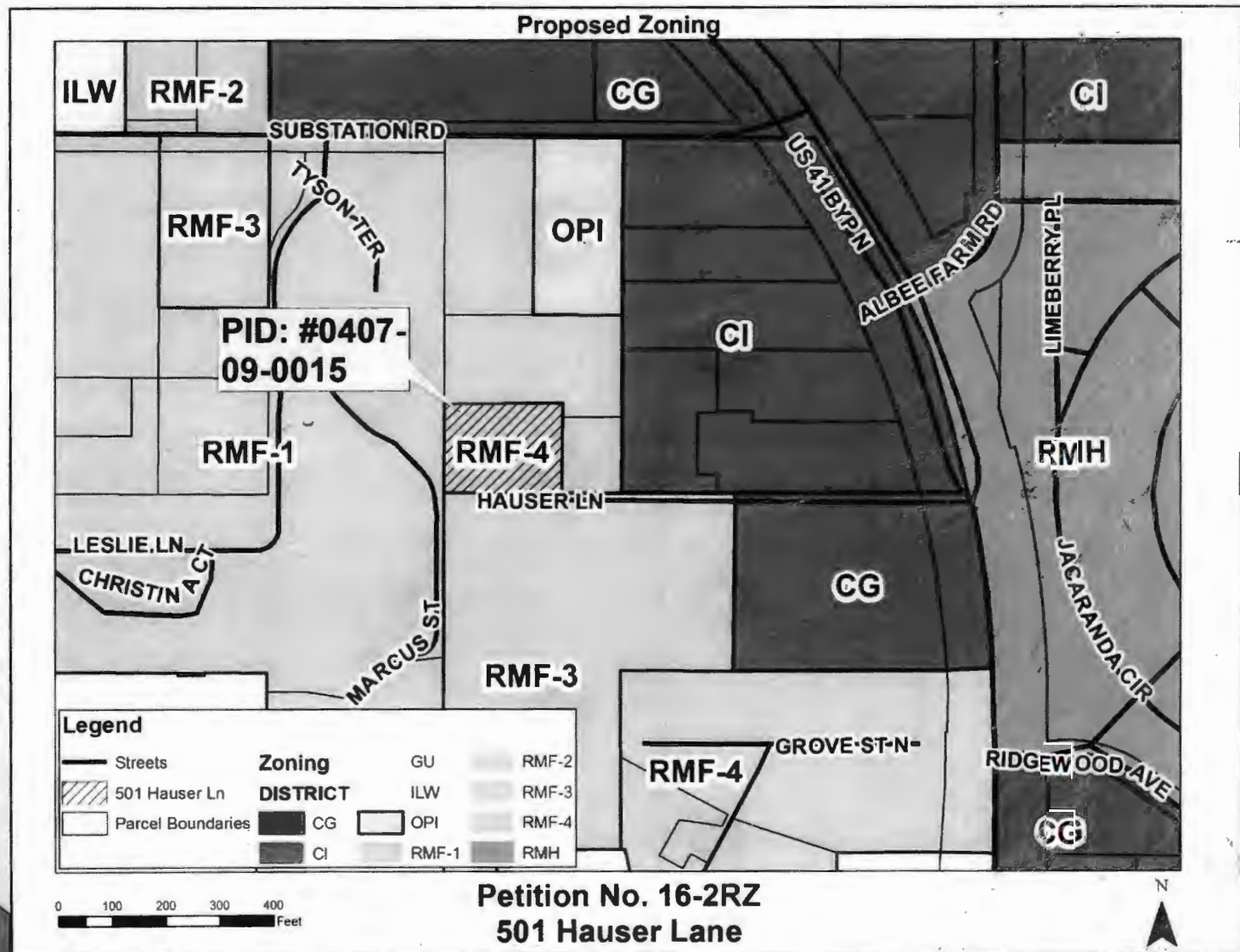
Future Land Use Map (Staff Report Map 2)



Existing Zoning Map (Staff Report Map 3)



Proposed Zoning Map (Staff Report Map 4)



Consistency with the Comprehensive Plan

The rezone petition needs to be found consistent with the comprehensive plan, which is primarily evaluated in the following two ways:

- A. Consistency with the property's future land use map designation**
- B. Consistency with the comprehensive plan policy on land use compatibility**

A. Consistency with Future Land Use Map Designation

- The subject property has a future land use map designation of Seaboard Section, Planning Area G.
- The planning intent of the sector is to make the best use of the central location, water-oriented resources, and grid-pattern street network by establishing a walkable mixed use community sector. The intent is further specified to foster an integrated sector that includes housing opportunities, professional businesses and offices, service businesses, recreation and service resources, restaurants, water-oriented activities, and parks and public spaces.
- Policy 16.14A establishes a max. residential density range of up to 18 units per acre.
- Policy 16.14B establishes a max. residential density average that is not to exceed 18 units per acre.

B. Land Use Compatibility

E. Protection of single-family neighborhoods from the intrusion of incompatible uses (staff report pages 11 and 12)

Staff planning analysis:

- **There is not residential single-family zoning in the area surrounding the subject property.**
- **All abutting properties have RMF zoning, including the property to the south zoned RMF-3.**
- **Within 200 feet of the subject property is three non-residential properties zoned CI and OPI; within 400 feet are properties zoned RMF-3, RMF-4 and CG.**

B. Land Use Compatibility (staff report p. 12)

- F. Prevention of the location of commercial or industrial uses in areas where such uses are incompatible with existing uses.**

This consideration is not applicable to the subject rezone petition. Commercial and industrial uses are not permitted in the proposed RMF-4 district.

- G. The degree to which the development phases out nonconforming uses in order to resolve incompatibilities resulting from development inconsistent with the current comprehensive plan.**

This consideration is not applicable to the subject zoning map amendment petition. There are no nonconforming uses on the subject property.

- H. Densities and intensities of proposed uses as compared to densities and intensities of existing uses.**

The information and planning analysis for this consideration is provided in the report on consideration E.

Staff Summary/Findings of Fact

Finding of Fact (Comprehensive Plan): The proposed RMF-4 district is consistent with the Seaboard Sector planning intent, and the sector's maximum density standards. The proposed RMF-4 district can be found compatible with adjacent properties. Land use compatibility will be further evaluated when a specific development proposal for the subject property is submitted. In summary, the proposed RMF-4 district is consistent with the comprehensive plan.

* **Finding of Fact (Concurrency):** Currently there are adequate public facilities available to accommodate the increased development potential from the proposed RMF-4 zoning. Further concurrency analysis and the issuance of a certificate of concurrency will be required prior to development of the subject property.

Findings of Fact (Applicable Rezoning Considerations): Based on the evaluation provided in the staff report, sufficient information has been provided to make findings of fact for each of the rezoning considerations contained in Section 86-47(f) a-p, of the Land Development Code.

ZONING AMENDMENT
S & J Properties
Rezone Petition No. 07-07RZ.1

Owner: S & J Properties of SW FL, LLC

Agent: Jeffrey Boone, Boone Law Firm

Address: 2300 Laurel Road

Parcel ID #s: 0385-02-0002 & 0385-01-0002

Parcel Size: 25.54 \pm acres

Existing Zoning District: Residential, Multiple-Family 3 (RMF-3) with stipulations

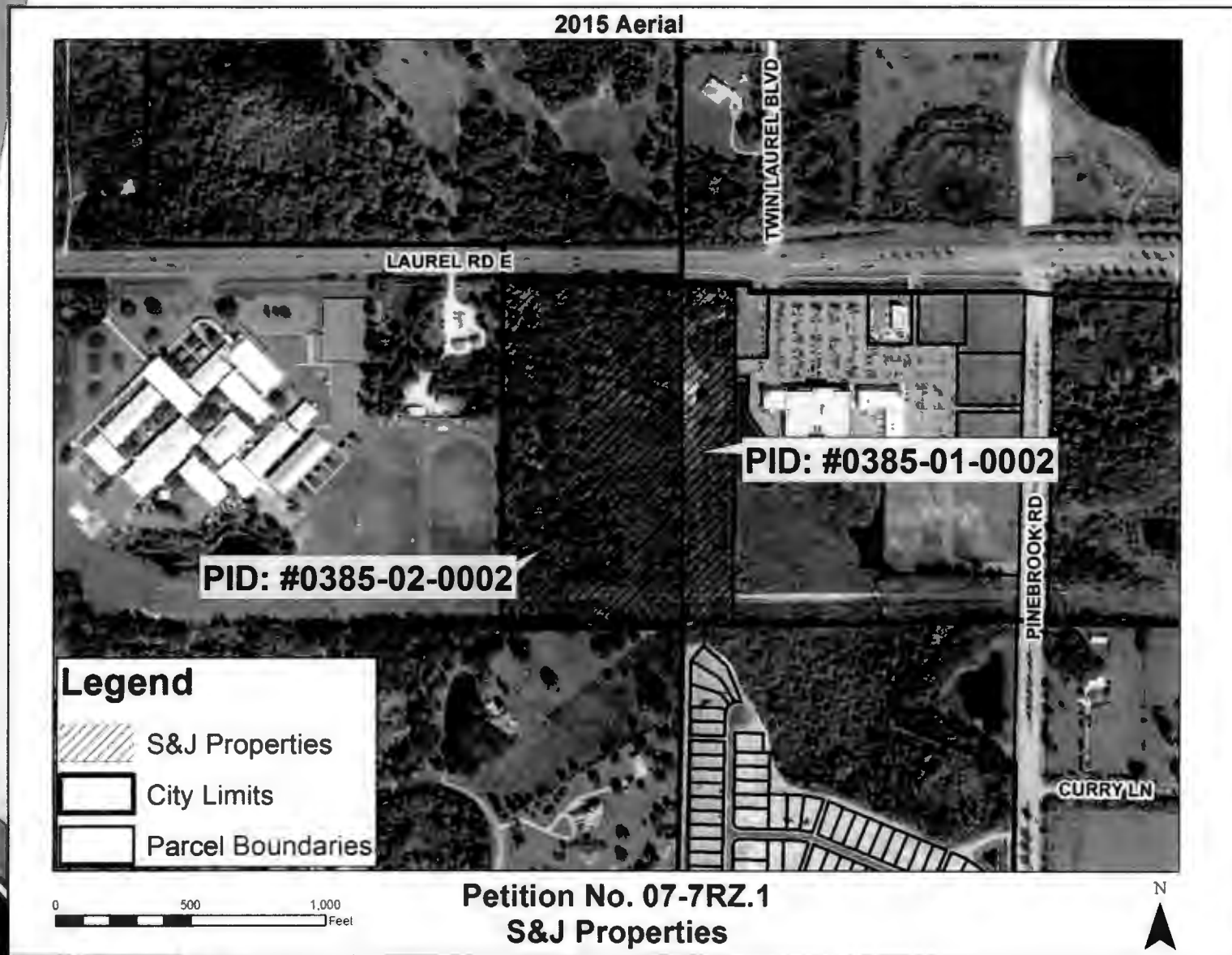
Proposed Zoning District: Residential, Multiple-Family 3 (RMF-3) with amended
(eliminated) stipulations

Future Land Use Designation: Medium Density Residential

Summary of Proposed Rezone Petition

- Existing RMF-3 zoning district to remain – request is not a zoning map amendment
- Request is to eliminate five existing stipulations included in the approval of Rezone Petition No. 07-07RZ
 1. Require non-vehicular connectivity between this parcel and the eastern property
 2. Height limit of 35 feet
 3. Density shall not exceed eight units per acre
 4. A vegetative buffer shall be placed along the southern boundary of the property at a 70% opacity immediately adjacent to the 175 foot FPL easement with the exception of the wetland on the southern boundary, no vegetative buffer shall be placed between the wetland on the southern boundary of the property; and
 5. Venetian Gateway (VG) standards relating to architectural design and signage standards

Aerial Photograph (Staff Report Map 1)



Photographs of On-Site and Off-Site Conditions



**The subject property's
frontage along Laurel
Road**



**The Plaza Venezia Shopping
Center abuts the subject
property to the east**

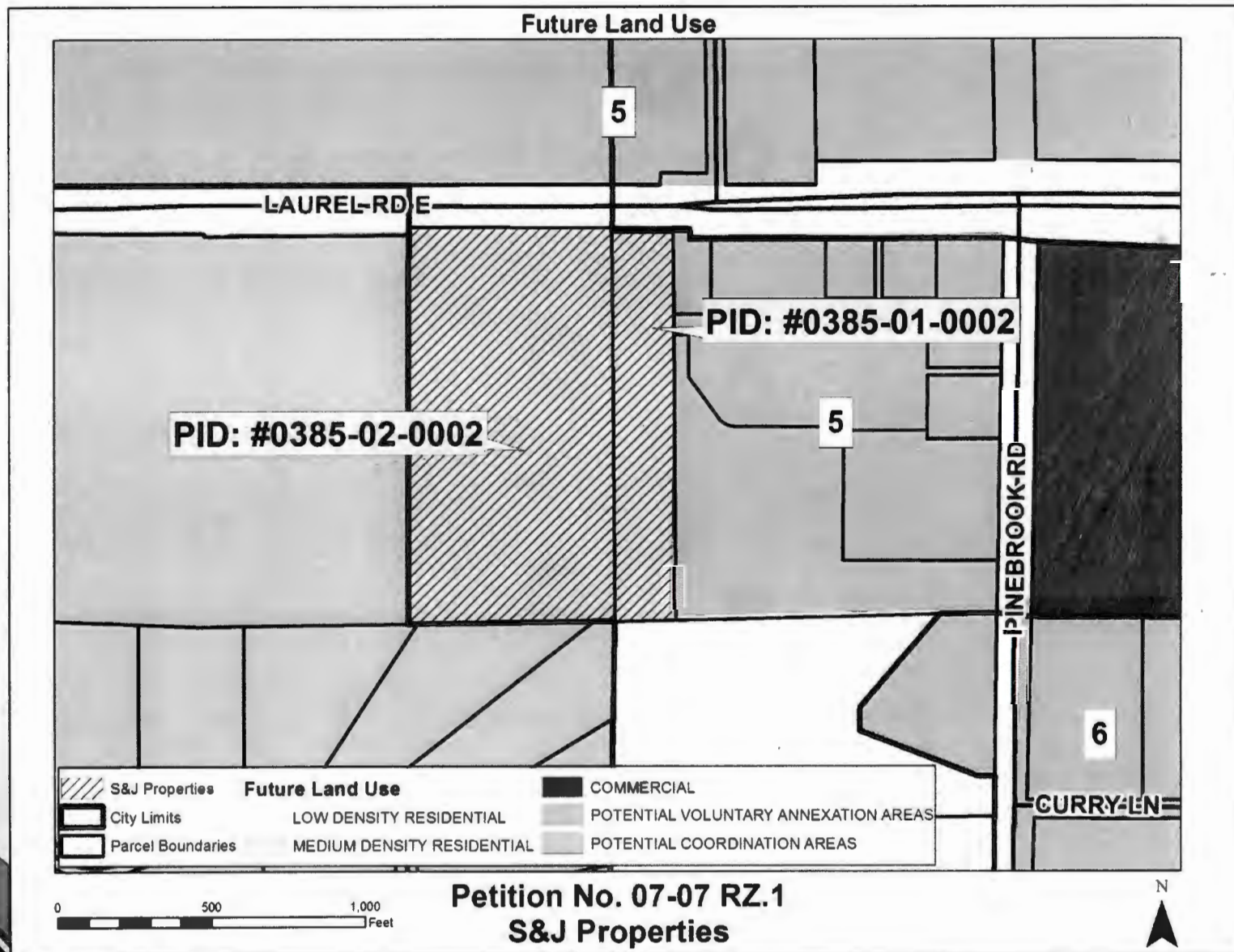


School District maintenance facility abuts the subject property to the west

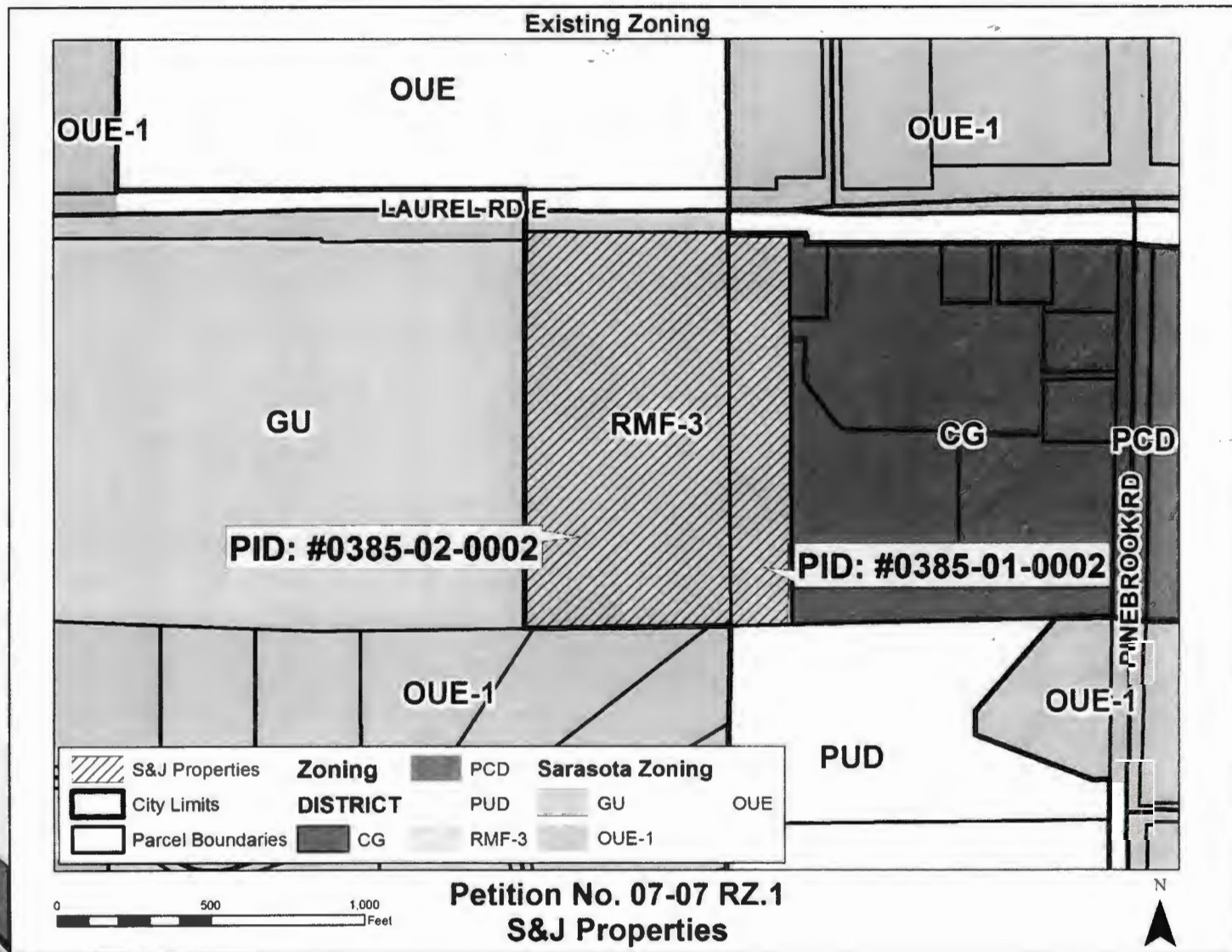


Laurel Nokomis Elementary and Middle School abuts the subject property to the west

Future Land Use Map (Staff Report Map 2)



Existing & Proposed Zoning Map (Staff Report Map 3)



Summary of Staff Planning Analysis

The rezone petition needs to be found consistent with the comprehensive plan, which is evaluated in the following three ways:

- A. Consistency with the property's future land use map designation**
- B. Consistency with the comprehensive plan policy on land use compatibility**
- C. If comprehensive plan consistency can be maintained with the elimination of the five stipulations**

A. Consistency with Future Land Use Map

- **The subject property has a future land use map designation of Medium Density Residential**
- **This designation is for residential areas of 5.1 to 13 dwelling units per acre intended to accommodate single and multi-family residential areas**
- **The proposed RMF-3 zoning allows a maximum residential density of 13 units per acre, which is consistent with the property's Medium Density Residential designation**

B. Land Use Compatibility

Policy 8.2 Land Use Compatibility Review Procedures.

Policy 13.1 Residential Future Land Uses.

- **Requires proposed rezoning to be reviewed for consistency with compatibility criteria in Policy 8.2**
- **Provides guidance on appropriate densities**

Section 10 (I) JPA/ILSBA – Appendix A of comprehensive plan

- **Requires the city to use the County land use compatibility principles during the review of a rezone petition when the parcel is in or adjoins a joint planning area**
- **Lists topics to be evaluated in land use compatibility reviews and five techniques to mitigate potential incompatibility**

B. Land Use Compatibility

Compatibility review evaluation

County: land use density, intensity, character or type of use proposed and site and architectural mitigation design techniques.

City: land use density and intensity, building heights and setbacks, character or type of use proposed and site and architectural mitigation design techniques

Mitigation techniques

County: (i) providing open space, perimeter buffers, landscaping and berms, (ii) screening of sources of light, noise, mechanical equipment, refuse area, delivery areas and storage areas, (iii) locating road access to minimize adverse impacts, increased building setbacks, step-down in building heights, and (iv) increasing lot sizes and lower density or intensity of use.

City: I. Providing open space, perimeter buffers, landscaping and berms. J. Screening of sources of light, noise, mechanical equipment, refuse areas, delivery and storage areas. K. Locating road access to minimize adverse impacts. L. Adjusting building setbacks to transition between different uses. M. Applying step-down or tiered building heights to transition between different uses. N. Lowering density or intensity of land uses to transition between different uses.

B. Land Use Compatibility

Pursuant to Policy 13.1, the staff report evaluates each consideration set forth in Policy 8.2 E thru H.

E. Protection of single-family neighborhoods from the intrusion of incompatible uses (staff report pages 11 and 12)

Matters included in staff's evaluation:

- **Comprehensive plan definition of compatibility – a condition in which land uses or use or condition is unduly negatively impacted directly or indirectly by another use or condition.**
- **The comprehensive plan does not specify what land uses are compatible and what land uses are incompatible.**
- **Generally, like uses (e.g. residential next to residential) are considered to be compatible; however, differences in density need to be evaluated.**
- **Policy 13.1 (4th paragraph) provides guidance on the appropriateness of densities within each density range (low, medium and high density); the policy does not specify needed action if adjacent densities are deemed inappropriate. Staff has conservatively assumed mitigation is needed if densities are deemed inappropriate**
- **The appropriateness of one residential designation adjacent to another residential designation (e.g. medium density residential [5.1 to 13 dus/ac.] adjacent to low density residential [up to 5 dus/ac.]. This is not specified in the comprehensive plan; it is a logical and reasonable extrapolation of Policy 13.1 which has been used by staff in other rezoning petitions to address the lack of direction provided by the comprehensive plan**

B. Land Use Compatibility

E. Protection of single-family neighborhoods from the intrusion of incompatible uses (staff report pages 11 and 12)

Staff planning analysis:

- **Mitigation may be needed to address the density differential between the low density Sorrento Ranches subdivision and the existing/proposed medium density on the subject property.**
- **The existing 170-foot wide FPL easement on the southern portion of the subject property provides a physical separation between the Sorrento Ranches subdivision and any development on the subject property.**
- **The FPL easement allows implementation of the mitigation technique listed in Policy 8.2 L, (adjusting building setbacks to transition between different uses [densities]).**

B. Land Use Compatibility

- F. Prevention of the location of commercial or industrial uses in areas where such uses are incompatible with existing uses. (staff report page 12)**

This consideration is not applicable to the subject rezone petition. The existing and proposed zoning (RMF-3) allows the same permitted land uses.

- G. The degree to which the development phases out nonconforming uses in order to resolve incompatibilities resulting from development inconsistent with the current comprehensive plan (staff report page 12)**

This consideration is not applicable to the subject rezone petition. The subject property is vacant, there are no nonconforming uses on the property.

- H. Densities and intensities of proposed uses as compared to densities and intensities of existing uses (staff report page 13)**

The densities of the proposed and existing uses was taken into account in the evaluation of consideration E.

C. Maintaining comprehensive plan consistency if stipulations are eliminated

1. **Require non-vehicular connectivity between this parcel and the eastern property.**

Due to the non-specific nature of the stipulation language, the existing sidewalk along Laurel Road can be seen to satisfy the stipulations and other comprehensive plan policy on connectivity. The LDC has no standards on connectivity.

2. **Height limit of 35 feet.**

The comprehensive plan has no maximum height standard that applies to the subject property. If this stipulation is eliminated the property will be subject to the maximum building height standard for the RMF-3 district which is 45 feet; an additional 10 feet for one story devoted primarily to parking within the structure may be added to the limit.

C. Maintaining comprehensive plan consistency if stipulations are eliminated

3. Density shall not exceed eight units per acre.

If this stipulation is eliminated, the subject property will have a RMF-3 district maximum density of 13 units/acre which is consistent with the property's medium density residential future land use map designation.

4. A vegetative buffer shall be placed along the southern boundary of the property at a 70% opacity immediately adjacent to the 175 foot FPL easement with the exception of the wetland on the southern boundary, not vegetative buffer shall be placed between the wetland on the southern boundary of the property.

The 170-foot wide FPL easement will remain if this stipulation is eliminated. The Planning Commission and City Council will need to determine if the FPL easement, alone, will be sufficient to mitigate the density differential between the subject property and the Sorrento Ranches subdivision. Additional LDC-required landscape buffering will depend on the design of future development of the site.

C. Maintaining comprehensive plan consistency if stipulations are eliminated

5. Venetian Gateway (VG) standards relating to architectural design and signage standards.

The comprehensive plan has no policy or standard regarding architectural design and signage standards on the subject property. Elimination of this stipulation has no effect on the comprehensive plan. Since the subject property is not located in a VG overlay district the development of the property will not be subject to architectural standards and will be subject to the LDC sign code standards.

Staff Summary/Findings of Fact

Finding of Fact (Comprehensive Plan): The proposed zoning change is consistent with the Medium Density residential future land use map designation and consistent with Section 10 (I) of the JPA/LSBA and other land use compatibility-related policies in the comprehensive plan. Land use compatibility will be further evaluated as part of any future site and development plan and/or preliminary plat. In addition, comprehensive plan consistency can be maintained with the elimination of the five existing stipulations required through the approval of Rezone Petition No. 07-07RZ.1.

Finding of Fact (Concurrency): Concurrency analysis and a certificate of concurrency will need to be obtained prior to actual development of the subject property. City review staff did not identify issues regarding the availability of services to the subject property.

Findings of Fact (Applicable Rezoning Considerations): Staff has provided the applicant's evaluation of the applicable rezoning considerations contained in Section 86-47 (f) (1) a-p, of the Land Development Code. When appropriate, staff has supplemented the applicant's evaluation to provide additional information to be considered.

Planning Commission Recommendation

On April 5, 2016, the Planning Commission, found Petition No. 07-7RZ.1 inconsistent with the Comprehensive Plan and not in compliance with the Land Development Code specifically, in regard to the following:

- **Section 86-47(f)(1)g. Whether the proposed change will adversely influence living conditions in the neighborhood.**
- **Section 86-47(f)(1)k. Whether the proposed change will adversely affect property values in the adjacent area.**
- **Section 86-47(f)(1)n. Whether there are substantial reasons why the property cannot be used in accord with the existing zoning.**

Based on the above, Planning Commission voted to recommend denial of the petition to City Council by a vote of 5 to 1.

In addition, the issue of concurrency review was raised at the April 5th meeting. Since that meeting, a second request was made to the applicable reviewing agencies and no issues have been identified (*see transmittal memo*).

Ex. 5

SIGNIFICANT INCOMPATIBLE DENSITY INCREASE

LOCATION	MAXIMUM FLUM DENSITY	S&J DENSITY REQUEST	DENSITY INCREASE	ACTUAL DENSITY	ACTUAL DENSITY INCREASE
JPA/ILSBA	8 DU/AC	13 DU/AC	62.5%	-	
SORRENTO RANCHES	<2 DU/AC	13 DU/AC	550%	1 DU/5 AC	6,400%
WINDWOOD	5 DU/AC	13 DU/AC	160%	2 DU/AC	550%
MIDDLE SCHOOL	5 DU/AC	13 DU/AC	160%	-	

It is important to note that approximately 53 percent of the eastern S&J property boundary (672 feet of the total 1,256 feet) is adjacent to a large wetland; therefore, only 47 percent of the site is adjacent to low intensity commercial development. The school is approximately 631 feet west of the S& J property.

Policy 13.1 Residential Future Land Uses.

The exact density appropriate for each land tract will be determined at the time of rezoning. A proposed rezoning will be reviewed for consistency with the compatibility criteria set forth in Policy 8.2 of the Future Land Use & Design Element and is not entitled to the maximum allowable density for its Future Land Use Map category.

Approving 13 du/ac creates an island of significantly higher density adjacent to much lower residential density, which is the exact opposite of Policy 13.1, which states “Densities at the lower end of the range will be more appropriate adjacent to lower density residential uses or designations.”

Ex. 4

Prepared by: City Clerk's Office

ORDINANCE NO. 2006-08

AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, ANNEXING CERTAIN LANDS LYING CONTIGUOUS TO THE CITY LIMITS, AS PETITIONED BY S & J PROPERTIES OF SOUTHWEST FLORIDA, LLC, A FLORIDA LIMITED LIABILITY COMPANY, INTO THE CORPORATE LIMITS OF THE CITY OF VENICE, FLORIDA, AND REDEFINING THE BOUNDARY LINES OF THE CITY TO INCLUDE SAID ADDITIONS.

WHEREAS, The City Council of the City of Venice, Florida received a sworn Petition from S & J Properties of Southwest Florida, LLC, a Florida limited liability company, dated June 9, 2005 requesting the city to annex a certain parcel of real estate herein described, owned by S & J Properties of Southwest Florida, LLC, a Florida limited liability company, into the corporate limits of the City of Venice, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA:

SECTION 1. After its evaluation of all evidence presented, and in reliance upon representations made by S & J Properties of Southwest Florida, LLC, a Florida limited liability company, in said petition, the City of Venice, acting by and through its City Council by the authority and under the provisions of the Municipal Charter of the City of Venice, and the laws of Florida, hereby annexes into the corporate limits of the City of Venice, Florida, and redefines the boundary lines of said city so as to include the following described parcel of real property in Sarasota County, Florida:

The East ½ of the Northwest ¼ of the Northeast ¼ of Section 32, Township 38 South, Range 19 East, less the road right of way described in OR Book 2070, page 1005 and OR Book 2129, page 1723, of the Public Records of Sarasota County Florida.

Commonly known as property south of Laurel Road, west of Pinebrook Road adjacent to 2300 E Laurel Road, North Venice, Florida. Totaling 19.65 ± acres.

SECTION 2. The City Council hereby formally and according to law accepts the dedication of all easements, streets, parks, plazas, rights-of-way and other dedications to the public which have heretofore been made by plat, deed or user within the area so annexed.

SECTION 3. That the proper city officials of said City of Venice be, and they hereby are, authorized and directed to file with the Clerk of the Circuit Court of Sarasota County, Florida, a certified copy of this Ordinance, and to do and perform such other acts and things as may be necessary and proper to effectuate the true intent of this Ordinance. The pre-annexation agreement is incorporated into this Ordinance and is made a part thereof.

SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

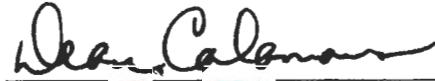
SECTION 5. This Ordinance shall take effect immediately upon its adoption as provided by law.

PASSED BY THE COUNCIL OF THE CITY OF VENICE, FLORIDA, THIS 24TH DAY OF JANUARY 2006.

First Reading: January 10, 2006

Final Reading: January 24, 2006

ADOPTION: January 24, 2006



Dean Calamaras, Mayor

Attest:



Lori Stelzer, MMC, City Clerk

I, Lori Stelzer, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of an Ordinance duly adopted by the City of Venice Council, a meeting thereof duly convened and held on the 24th day of January 2006, a quorum being present.

WITNESS my hand and the official seal of said City this 25th day of January 2006.


Lori Stelzer, MMC, City Clerk

Approved as to form:


City Attorney

PRE-ANNEXATION AGREEMENT

This agreement is made this 10th day of JANUARY, 2008⁶, by and between the CITY OF VENICE, FLORIDA, a municipal corporation (hereinafter referred to as "City") and S & J PROPERTIES OF SOUTHWEST FLORIDA LLC, a Florida limited liability company (hereinafter referred to as "Owner").

WHEREAS, the Owner owns a parcel of land comprising approximately nineteen acres (hereinafter referred to as the "Subject Property") located in Sarasota County, Florida which is more particularly described by the legal description attached hereto as Exhibit "A"; and

WHEREAS, the Owner has filed an annexation petition pursuant to Section 171.044, Florida Statutes, seeking to voluntarily annex and include the Subject Property within the corporate limits of the City; and

WHEREAS, the Owner has agreed to certain terms and conditions required by the City in order to gain approval of said petition and to adopt an ordinance annexing the Subject Property into the City; and

WHEREAS, the City has determined that in the event the Subject Property is annexed into the City, it would best serve the public interest to be annexed subject to the terms and conditions contained herein.

NOW, THEREFORE, for and in consideration of the terms, conditions, and mutual covenants contained herein, the City and Owner agree as follows:

1. CONDITION PRECEDENT. This agreement shall not be binding or enforceable by either party unless and until the City duly adopts an ordinance annexing the Subject Property into the corporate limits of the City.
2. ZONING. The Subject Property is currently zoned by Sarasota County as OUE. The Owner shall petition the City to rezone the Subject Property to a district or districts under the Venice Zoning Code within one (1) year of the City's adoption of an ordinance annexing the property into the corporate limits of the City. No development orders shall be granted until the Subject Property is so rezoned. Following annexation, the Subject Property shall be subject to all codes, laws, ordinances, and regulations in force within the City.
3. CONCURRENCY EVALUATION NOT MADE; NO RELIANCE OR VESTED RIGHT. Nothing contained in this agreement and no review of the impacts of the proposed development of the Subject Property upon public facilities and services which has occurred in the process of reviewing this annexation or in negotiating this pre-annexation agreement shall be considered a determination that adequate public facilities will be available concurrent with the impacts of development of the Subject Property. The Owner acknowledges and agrees that any such review of the impacts of development of the Subject Property shall offer no basis upon which the Owner may rely or upon which the Owner can assert that a vested property right has been created. It is specifically understood and agreed that a determination that adequate public facilities and services are available concurrent with the impacts of any proposed development must be made before any development order is granted in connection with the Subject Property.

4. EXTENSION OF WATER AND WASTEWATER UTILITY LINES. The Owner shall construct and pay the cost of extending and sizing all offsite and onsite potable water, reclaimed water, and wastewater utility pipelines adequate to serve the Subject Property as determined by the Utility Manager and the City Engineer. All such work shall be performed in accordance with plans and specifications which have been approved through the City's Construction Permitting process. Fire flows shall be determined by the Fire Chief with the joint cooperation of the Utility Manager and the City Engineer. Owner shall convey all such potable water, reclaimed water and wastewater pipelines and lift stations to the City together with such easements as may be required for access to and maintenance of said pipelines and appurtenances. Utilities conveyed to the City shall be accepted for maintenance in accordance with all applicable State and City codes and policies which shall be applied to both offsite and onsite utility improvements.
5. WATER AND WASTEWATER UTILITY CHARGES. The Owner shall pay all potable water, reclaimed water, and wastewater utility rates, fees, and charges, including any capital charges such as water plant capacity charges and wastewater plant capacity charges, as determined by the City Code of Ordinances in effect at the time a building permit is issued for improvements that will be connected to the City's potable water, reclaimed water and wastewater utility systems.
6. EXTRAORDINARY MITIGATION FEE EXTRACTION. In order to mitigate the impacts of the proposed development upon the City, the Owner shall pay at the time of issuance of a Certificate of Occupancy an extraordinary mitigation fee, in the amount of \$1,695.00 per equivalent dwelling unit ("EDU"). The extraordinary mitigation fee shall be adjusted each fiscal year by an amount based on the fluctuations of the Consumer Price Index, subject to certain limitations and requirements as set forth in Exhibit "B" to

this agreement. For purposes of this agreement, the definition of equivalent dwelling unit is the same as the definition contained within the City Comprehensive Plan.

7. SARASOTA COUNTY IMPACT FEES. The City has permitted Sarasota County to collect library, park, school, and road impact fees within the City. Development of the Subject Property shall be subject to such impact fees and may also become subject to additional impact fees adopted by Sarasota County or the City in the future.
8. TRAFFIC STUDY. The Owner agrees to provide the City with a traffic study in accordance with the City's concurrency management regulations. The Owner shall pay the cost of any needed improvements identified by the traffic study or as determined by the City.
9. ATTORNEY FEE REIMBURSEMENT. The Owner shall reimburse the City all monies paid by the City to the City Attorney for services rendered concerning this annexation and all related matters.
10. INDEMNITY. It is agreed that if the City shall accept and include the Owner's lands for inclusion within its corporate limits pursuant to the petition for annexation, the Owner shall and will indemnify and save the City harmless from all costs, including reasonable attorneys' fees, that may be incurred by it in defending any and all litigation involving the validity of such annexation proceedings.

The Owner further covenants and agrees to and with the City that if the contemplated annexation shall ultimately be held invalid by court proceedings or excluded from the City limits by future legislation, then if and to the extent that the City shall continue to supply water, sewer and other utility services to the Subject Property, it shall be entitled to charge at such rates as may be prescribed from time to time by the City for comparable services outside the corporate limits.

The Owner further covenants and agrees, jointly and severally, to waive any claim for a refund of ad valorem taxes levied by and paid to the City of Venice on the Subject Property for any periods subsequent to the acceptance by the City of the Owner's petition for annexation and prior to the establishment of the invalidity thereof in the manner aforesaid.

11. DEFAULT. Upon the breach by either party of any term or condition of this Agreement, and upon the failure to cure same after thirty (30) days written notice from either party, then the non-defaulting party shall have the right to enforce same or to perform any such term or condition and recover the costs of same from the defaulting party.
12. ATTORNEY'S FEES. In the event of any default pursuant to the terms of this agreement, the prevailing party shall be entitled to recover all attorney's fees and costs from the other party, whether the same be incurred for negotiation, trial or appellate proceedings.
13. BINDING ON SUCCESSORS. The covenants contained herein shall run with the Subject Property and shall inure to the benefit of and be binding upon the respective successors, heirs, legal representatives and assigns of the parties to this agreement.
14. ENTIRE AGREEMENT. This document constitutes the entire agreement of the parties and cannot be changed or modified except by instrument in writing duly approved by both parties.
15. INCORPORATION INTO ORDINANCE. This agreement shall be incorporated into and shall become a part of the ordinance annexing the Subject Property into the City of Venice.

16. SEVERABILITY. The invalidity or unenforceability of any particular provision of this agreement shall not affect the other provisions hereof, and the agreement shall be construed in all respects as if such invalid or unenforceable provisions are omitted.

IN WITNESS WHEREOF, the City and the Owner set their hands and seals hereto on the day and year first above written.

CITY OF VENICE, FLORIDA

BY: Dean Calamaras

DEAN CALAMARAS, MAYOR

ATTEST:

Lori Stelzer

LORI STELZER, CITY CLERK

Approved By City Council

Date: 01/10/06

APPROVED AS TO FORM:

Robert C. Anderson

ROBERT C. ANDERSON, CITY ATTORNEY

OWNER: S&J PROPERTIES OF SOUTHWEST
FLORIDA, LLC

WITNESSES

Cathy Piccirilli
Dorlene Grant

BY:

Paul E. Smith

EXHIBIT A

SUBJECT PROPERTY LEGAL DESCRIPTION

The East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 32, Township 38 South, Range 19 East, less the road right of way described in OR Book 2070, page 1005 and OR Book 2129, page 1723, of the Public Records of Sarasota County Florida.

EXHIBIT B**EXTRAORDINARY MITIGATION FEE EXTRACTION**

The extraordinary mitigation fee payments provided for in paragraph 6 above, shall be subject to adjustment at the start of every fiscal year (October 1 through September 30) based on fluctuations in the revised Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-U) issued by the Bureau of Labor Statistics of the United States Department of Labor, effective November 1, 1978, said Index having a value of 100 for the year 1967, hereinafter referred to as the "Index."

The first adjustment shall be made on the first day of October following the commencement of the first extraordinary mitigation fee payment and shall be effective for the ensuing fiscal year. Additional annual adjustments shall be made on the first day of each subsequent fiscal year following the commencement of the first extraordinary mitigation fee payment and shall be effective for the ensuing fiscal year.

Each extraordinary mitigation fee adjustment shall be the result obtained by multiplying the then existing extraordinary mitigation fee amount by a fraction, the numerator of which shall be the Index for the month in which the adjustment is made and the denominator of which shall be the Index figure for the month one year preceding the month from which the Index used in the numerator was chosen.

Subject to the minimum two percent (2%) increase each year, it is the intent of the parties that the extraordinary mitigation fee shall be increased by the same percentage amount as the percentage increase in the Index during the year preceding the adjustment. The adjustment for any single year shall be the greater of the CPI increase as calculated above or two-percent (2%). In no event shall the extraordinary mitigation fee decrease based upon fluctuations in the Index.

Should the Bureau of Labor Statistics change the manner of computing such Index, the Bureau shall be requested to furnish a conversion factor designed to adjust the new Index to the one previously in use, and adjustment to the new Index shall be made on the basis of such conversion factor. Should publication of such Index be discontinued by the Bureau of Labor Statistics, then such Index as may be published by the United States Government most nearly approximating such discontinued Index shall be used in making the adjustments herein provided for. If the United States Government discontinues the publication of any such Index, then the parties shall agree upon the fee adjustments for the ensuing one year term.

Dan Lobeck

To: Robert S. Burrus, Jr., Ph.D.
Subject: FW: Annexation Documents for S&J Properties
Attachments: 2006-07 Ordinances.pdf; 2006-08 Ordinances.pdf; 2300 EAST LAUREL ROAD - S & J PROPERTIES ORDINANCE 2006-07 01_24_2006.pdf; 2300 EAST LAUREL ROAD - S & J PROPERTIES ORDINANCE 2006-08 01_24_2006.pdf

Interesting statement of the Pre-Annexation Agreement in Ord.2006-08 that a concurrency determination shall be made prior to any "development order" for the property. I will be prepared to show that state law defines that term to include a rezoning.

-- Dan Lobeck

From: Lori Stelzer [<mailto:L.Stelzer@Venicegov.com>]
Sent: Monday, October 10, 2016 5:09 PM
To: City Council
Cc: dpersson@swflgovlaw.com; Jeff Shrum; Dan Lobeck; jboone@boone-law.com; Edward Lavallee; 'Robert S. Burrus, Jr., Ph.D.'
Subject: Annexation Documents for S&J Properties

Council member Anderson requested the attached documents for the hearing tomorrow. They include the annexation petitions, ordinances, and pre-annexation agreements.

Lori Stelzer, MMC
City Clerk
City of Venice
401 W. Venice Avenue
Venice, FL 34285
941-882-7390
941-480-3031 (FAX)

Need to Report an Issue? SeeClickFix Venice Connect is available as an app for Android and iPhone. Select SeeClickFix from your app store on your device and choose Venice, Florida. There is also a link to the program on the city's website, www.venicegov.com, or go directly to SeeClickFix at <http://www.seeclickfix.com/Venice> _____ PLEASE NOTE: This agency is a public entity and is subject to Chapter 119, Florida Statutes, concerning public records. Email communications are covered under such laws; therefore, email sent or received on this entity's computer system, including your email address, may be disclosed to the public and media upon request. If you do not want your email address released to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

ORDINANCE NO. 2006-08

AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, ANNEXING CERTAIN LANDS LYING CONTIGUOUS TO THE CITY LIMITS, AS PETITIONED BY S & J PROPERTIES OF SOUTHWEST FLORIDA, LLC, A FLORIDA LIMITED LIABILITY COMPANY, INTO THE CORPORATE LIMITS OF THE CITY OF VENICE, FLORIDA, AND REDEFINING THE BOUNDARY LINES OF THE CITY TO INCLUDE SAID ADDITIONS.

WHEREAS, The City Council of the City of Venice, Florida received a sworn Petition from S & J Properties of Southwest Florida, LLC, a Florida limited liability company, dated June 9, 2005 requesting the city to annex a certain parcel of real estate herein described, owned by S & J Properties of Southwest Florida, LLC, a Florida limited liability company, into the corporate limits of the City of Venice, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA:

SECTION 1. After its evaluation of all evidence presented, and in reliance upon representations made by S & J Properties of Southwest Florida, LLC, a Florida limited liability company, in said petition, the City of Venice, acting by and through its City Council by the authority and under the provisions of the Municipal Charter of the City of Venice, and the laws of Florida, hereby annexes into the corporate limits of the City of Venice, Florida, and redefines the boundary lines of said city so as to include the following described parcel of real property in Sarasota County, Florida:

The East ½ of the Northwest ¼ of the Northeast ¼ of Section 32, Township 38 South, Range 19 East, less the road right of way described in OR Book 2070, page 1005 and OR Book 2129, page 1723, of the Public Records of Sarasota County Florida.

Commonly known as property south of Laurel Road, west of Pinebrook Road adjacent to 2300 E Laurel Road, North Venice, Florida. Totaling 19.65 ± acres.

SECTION 2. The City Council hereby formally and according to law accepts the dedication of all easements, streets, parks, plazas, rights-of-way and other dedications to the public which have heretofore been made by plat, deed or user within the area so annexed.

SECTION 3. That the proper city officials of said City of Venice be, and they hereby are, authorized and directed to file with the Clerk of the Circuit Court of Sarasota County, Florida, a certified copy of this Ordinance, and to do and perform such other acts and things as may be necessary and proper to effectuate the true intent of this Ordinance. The pre-annexation agreement is incorporated into this Ordinance and is made a part thereof.

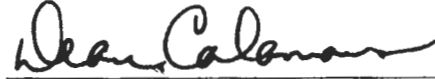
SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 5. This Ordinance shall take effect immediately upon its adoption as provided by law.

PASSED BY THE COUNCIL OF THE CITY OF VENICE, FLORIDA, THIS 24TH DAY OF JANUARY 2006.

First Reading: January 10, 2006
Final Reading: January 24, 2006

ADOPTION: January 24, 2006




Dean Calamaras, Mayor

Attest:



Lori Stelzer, MMC, City Clerk

I, Lori Stelzer, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of an Ordinance duly adopted by the City of Venice Council, a meeting thereof duly convened and held on the 24th day of January 2006, a quorum being present.

WITNESS my hand and the official seal of said City this 25th day of January 2006.


Lori Stelzer, MMC, City Clerk

Approved as to form:


City Attorney

PRE-ANNEXATION AGREEMENT

This agreement is made this 10th day of JANUARY, 200~~8~~⁶, by and between the CITY OF VENICE, FLORIDA, a municipal corporation (hereinafter referred to as "City") and S & J PROPERTIES OF SOUTHWEST FLORIDA LLC, a Florida limited liability company (hereinafter referred to as "Owner").

WHEREAS, the Owner owns a parcel of land comprising approximately nineteen acres (hereinafter referred to as the "Subject Property") located in Sarasota County, Florida which is more particularly described by the legal description attached hereto as Exhibit "A"; and

WHEREAS, the Owner has filed an annexation petition pursuant to Section 171.044, Florida Statutes, seeking to voluntarily annex and include the Subject Property within the corporate limits of the City; and

WHEREAS, the Owner has agreed to certain terms and conditions required by the City in order to gain approval of said petition and to adopt an ordinance annexing the Subject Property into the City; and

WHEREAS, the City has determined that in the event the Subject Property is annexed into the City, it would best serve the public interest to be annexed subject to the terms and conditions contained herein.

NOW, THEREFORE, for and in consideration of the terms, conditions, and mutual covenants contained herein, the City and Owner agree as follows:

1. CONDITION PRECEDENT. This agreement shall not be binding or enforceable by either party unless and until the City duly adopts an ordinance annexing the Subject Property into the corporate limits of the City.
2. ZONING. The Subject Property is currently zoned by Sarasota County as OUE. The Owner shall petition the City to rezone the Subject Property to a district or districts under the Venice Zoning Code within one (1) year of the City's adoption of an ordinance annexing the property into the corporate limits of the City. No development orders shall be granted until the Subject Property is so rezoned. Following annexation, the Subject Property shall be subject to all codes, laws, ordinances, and regulations in force within the City.
3. CONCURRENCY EVALUATION NOT MADE; NO RELIANCE OR VESTED RIGHT. Nothing contained in this agreement and no review of the impacts of the proposed development of the Subject Property upon public facilities and services which has occurred in the process of reviewing this annexation or in negotiating this pre-annexation agreement shall be considered a determination that adequate public facilities will be available concurrent with the impacts of development of the Subject Property. The Owner acknowledges and agrees that any such review of the impacts of development of the Subject Property shall offer no basis upon which the Owner may rely or upon which the Owner can assert that a vested property right has been created. It is specifically understood and agreed that a determination that adequate public facilities and services are available concurrent with the impacts of any proposed development must be made before any development order is granted in connection with the Subject Property.

4. EXTENSION OF WATER AND WASTEWATER UTILITY LINES. The Owner shall construct and pay the cost of extending and sizing all offsite and onsite potable water, reclaimed water, and wastewater utility pipelines adequate to serve the Subject Property as determined by the Utility Manager and the City Engineer. All such work shall be performed in accordance with plans and specifications which have been approved through the City's Construction Permitting process. Fire flows shall be determined by the Fire Chief with the joint cooperation of the Utility Manager and the City Engineer. Owner shall convey all such potable water, reclaimed water and wastewater pipelines and lift stations to the City together with such easements as may be required for access to and maintenance of said pipelines and appurtenances. Utilities conveyed to the City shall be accepted for maintenance in accordance with all applicable State and City codes and policies which shall be applied to both offsite and onsite utility improvements.
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this agreement. For purposes of this agreement, the definition of equivalent dwelling unit is the same as the definition contained within the City Comprehensive Plan.

7. SARASOTA COUNTY IMPACT FEES. The City has permitted Sarasota County to collect library, park, school, and road impact fees within the City. Development of the Subject Property shall be subject to such impact fees and may also become subject to additional impact fees adopted by Sarasota County or the City in the future.
8. TRAFFIC STUDY. The Owner agrees to provide the City with a traffic study in accordance with the City's concurrency management regulations. The Owner shall pay the cost of any needed improvements identified by the traffic study or as determined by the City.
9. ATTORNEY FEE REIMBURSEMENT. The Owner shall reimburse the City all monies paid by the City to the City Attorney for services rendered concerning this annexation and all related matters.
10. INDEMNITY. It is agreed that if the City shall accept and include the Owner's lands for inclusion within its corporate limits pursuant to the petition for annexation, the Owner shall and will indemnify and save the City harmless from all costs, including reasonable attorneys' fees, that may be incurred by it in defending any and all litigation involving the validity of such annexation proceedings.

The Owner further covenants and agrees to and with the City that if the contemplated annexation shall ultimately be held invalid by court proceedings or excluded from the City limits by future legislation, then if and to the extent that the City shall continue to supply water, sewer and other utility services to the Subject Property, it shall be entitled to charge at such rates as may be prescribed from time to time by the City for comparable services outside the corporate limits.

The Owner further covenants and agrees, jointly and severally, to waive any claim for a refund of ad valorem taxes levied by and paid to the City of Venice on the Subject Property for any periods subsequent to the acceptance by the City of the Owner's petition for annexation and prior to the establishment of the invalidity thereof in the manner aforesaid.

11. DEFAULT. Upon the breach by either party of any term or condition of this Agreement, and upon the failure to cure same after thirty (30) days written notice from either party, then the non-defaulting party shall have the right to enforce same or to perform any such term or condition and recover the costs of same from the defaulting party.
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13. BINDING ON SUCCESSORS. The covenants contained herein shall run with the Subject Property and shall inure to the benefit of and be binding upon the respective successors, heirs, legal representatives and assigns of the parties to this agreement.
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15. INCORPORATION INTO ORDINANCE. This agreement shall be incorporated into and shall become a part of the ordinance annexing the Subject Property into the City of Venice.

16. SEVERABILITY. The invalidity or unenforceability of any particular provision of this agreement shall not affect the other provisions hereof, and the agreement shall be construed in all respects as if such invalid or unenforceable provisions are omitted.

IN WITNESS WHEREOF, the City and the Owner set their hands and seals hereto on the day and year first above written.

CITY OF VENICE, FLORIDA

BY: Dean Calamaras

DEAN CALAMARAS, MAYOR

ATTEST:

Lori Stelzer

LORI STELZER, CITY CLERK

Approved By City Council

Date: 01/10/06

APPROVED AS TO FORM:

Robert C. Anderson

ROBERT C. ANDERSON, CITY ATTORNEY

OWNER: S&J PROPERTIES OF SOUTHWEST
FLORIDA, LLC

WITNESSES

Cathy Piccirilli
Darlene Drant

BY:

Brad E. Long

EXHIBIT B**EXTRAORDINARY MITIGATION FEE EXTRACTION**

The extraordinary mitigation fee payments provided for in paragraph 6 above, shall be subject to adjustment at the start of every fiscal year (October 1 through September 30) based on fluctuations in the revised Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-U) issued by the Bureau of Labor Statistics of the United States Department of Labor, effective November 1, 1978, said Index having a value of 100 for the year 1967, hereinafter referred to as the "Index."

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Each extraordinary mitigation fee adjustment shall be the result obtained by multiplying the then existing extraordinary mitigation fee amount by a fraction, the numerator of which shall be the Index for the month in which the adjustment is made and the denominator of which shall be the Index figure for the month one year preceding the month from which the Index used in the numerator was chosen.

Subject to the minimum two percent (2%) increase each year, it is the intent of the parties that the extraordinary mitigation fee shall be increased by the same percentage amount as the percentage increase in the Index during the year preceding the adjustment. The adjustment for any single year shall be the greater of the CPI increase as calculated above or two-percent (2%). In no event shall the extraordinary mitigation fee decrease based upon fluctuations in the Index.

Should the Bureau of Labor Statistics change the manner of computing such Index, the Bureau shall be requested to furnish a conversion factor designed to adjust the new Index to the one previously in use, and adjustment to the new Index shall be made on the basis of such conversion factor. Should publication of such Index be discontinued by the Bureau of Labor Statistics, then such Index as may be published by the United States Government most nearly approximating such discontinued Index shall be used in making the adjustments herein provided for. If the United States Government discontinues the publication of any such Index, then the parties shall agree upon the fee adjustments for the ensuing one year term.

DANIEL J. LOBECK
MARK A. HANSON*

MICHELLE A. STELLACI
DAVID J. FREDERICKS
LEAH E. ELLINGTON

2033 MAIN STREET, SUITE 403
SARASOTA, FL 34237
(941) 955-5622
FAX (941) 951-1469

E-MAIL law@lobeckhanson.com
INTERNET www.lobeckhanson.com

THE LAW OFFICES OF
LOBECK & HANSON

PROFESSIONAL ASSOCIATION

CONDOMINIUM
COOPERATIVE AND
COMMUNITY
ASSOCIATIONS

CIVIL LITIGATION

PERSONAL INJURY

FAMILY LAW

LAND USE LAW

ESTATES AND TRUSTS

September 6, 2016

**FLA. SUPR. CT. CERTIFIED MEDIATOR*

The Honorable John Holic, Mayor
City of Venice
401 West Venice Avenue
Venice, FL 34285

Transmitted by Email to LStelzer@Venicegov.com

Re: Rezone 07-07RZ.1 (S&J Properties)/ Request for Recognition of Party Status

Dear Mayor Holic:

As attorney for the following, this is to request that they be recognized and accepted as parties, with standing as such, in the public hearing of the Venice City Council on Rezone 07-07RZ.1 (S&J Properties) which is scheduled for September 13, 2016:

Sorrento Ranches Homeowners Association, Inc.

The Association is a homeowners association for the Subdivision which is immediately adjacent to the subject property. Approximately 670' of the 858.29' southern boundary of property which is the subject of the proposed rezoning is coincident with the northern boundary of Sorrento Ranches Subdivision at its northeast corner. All 19 homesites in Sorrento Ranches Subdivision and 4 homesites on the north of Kilpatrick Rd to the southeast of Sorrento Ranches Subdivision comprise the 23 homesites eligible for membership in Sorrento Ranches Homeowners Association, Inc. Membership in the Association is voluntary and its membership roster currently includes 16 members.

Dr. Robert S. Burrus, Jr. Ph.D and Dr. Barri Burrus, Ph.D.

Drs. Burrus own and reside in the home which is in close proximity to the subject property, specifically on Tract 7 of Sorrento Ranches Subdivision, which is adjacent to Tract 6, a portion of which adjoins the southern border of subject property.

Jody Skinner and Jean Skinner

Jody and Jean Skinner, together with their husbands, Stephen and Phillip respectively, together own Tract 5 of Sorrento Ranches Subdivision, which is directly adjacent to the subject S&J Property parcels. Jody and Stephen Skinner reside there as their principal residence and Jean and Phillip Skinner reside there part-time. The entirety of the 576' northern boundary of Tract 5 is coincident with a portion of the southern border of the property which is the subject of this rezone.

Jerod and Kristen Ballard

Mr. and Mrs. Ballard own and reside in their home in Tract 4 of Sorrento Ranches Subdivision, which is directly adjacent to the subject S&J Property parcels. Approximately 40.95' of the northern boundary of Tract 4 is coincident with a portion of the southern border of the property which is the subject of this rezone.

All of the foregoing are entitled to receive notice, and in fact did receive notice, by mail from the City of Venice for the subject rezoning.


Sorrento Ranches consists of large-lot homes with a density of one unit per five acres. The proposed rezoning would increase the maximum density on the subject property from 8 to 13 units per acre, as well as substantially increase the allowable height of the multi-family housing on that property. The foregoing allege that they would be aggrieved and adversely affected by the incompatibilities that would be allowed by the proposed rezoning, with regard to living conditions, including view, privacy, noise, property values and community character.

Accordingly, the foregoing are entitled to party status and standing under the applicable case law, including Renard v. Dade County, 261 So.2d 832 (Fla. 1972); Southwest Ranches Homeowners Association, Inc. v. County of Broward, 502 So.2d 931, 934-935 (Fla. 4th DCA 1987); Exch. Investments, Inc. v. Alachua County, 481 So. 2d 1223 (Fla. 1st DCA 1985); and Florida Rock Properties v. Keyser, 709 So. 2d 175, 177 (Fla. 5th DCA 1998).

Based on the considerations herein and after testimony by the Association, the Burrus' and the Skinners as to standing, and comments of counsel, the City of Venice Planning Commission voted unanimously to grant them party status and standing at the Planning Commission public hearing. Mr. and Mrs. Ballard did not request party status and standing at that time but do so now.

Please consider this request at the commencement of your September 13 public hearing. Thank you for your considerations and those of the Venice City Council.

Very truly yours,



Daniel J. Lobeck

DJL/pft



Laurel Rd E

Laurel Rd E

Laurel Nokomis School

Publix Super Market
at Plaza Venezia

McDonald's

Sorrento Ranches Dr

Sorrento Ranches Dr

Cohosh Rd

Avens Dr

Cohosh Rd

Pinebrook Rd

Pinebrook Rd

Pinebrook Rd

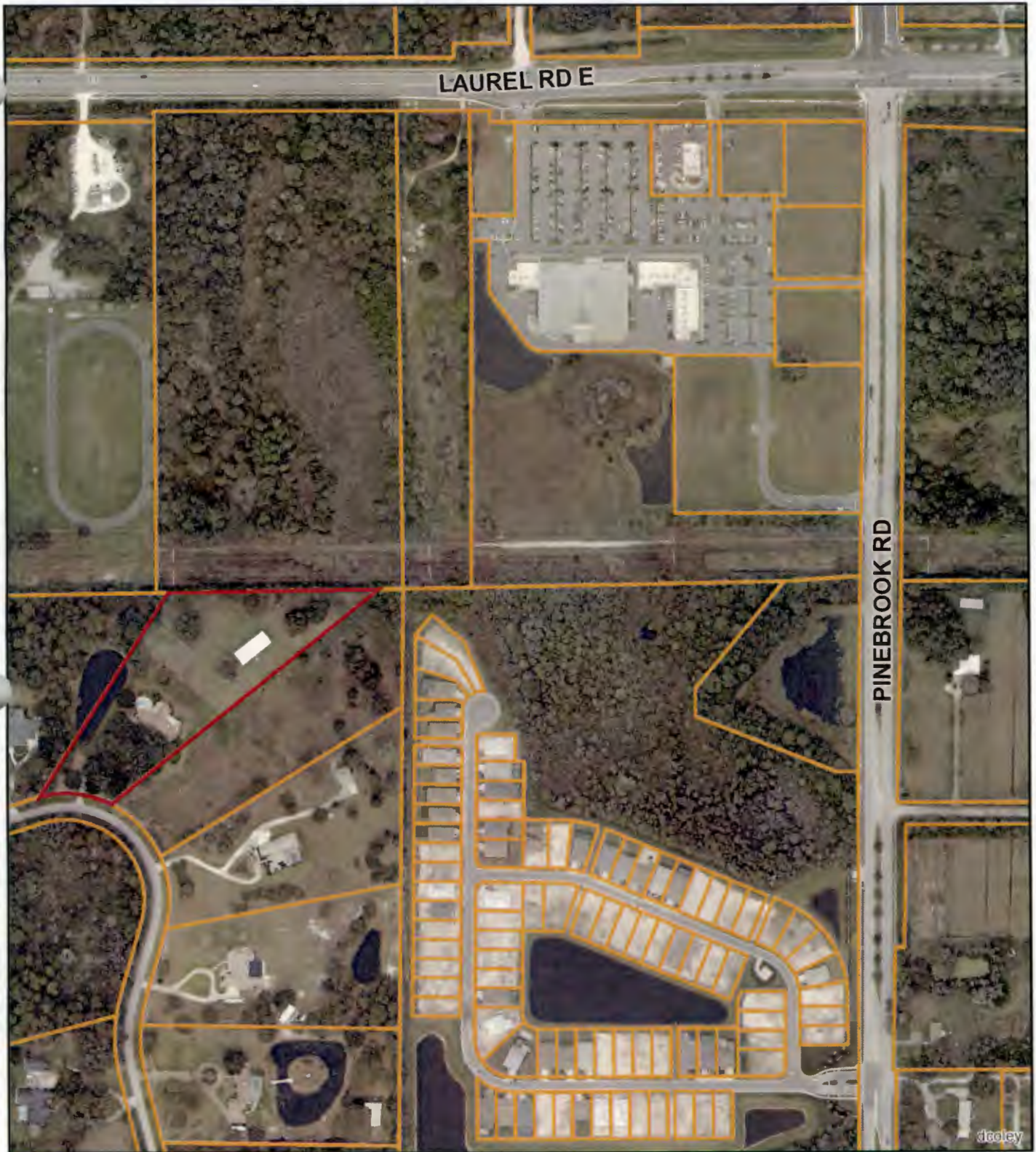
Pinebrook Rd

Pinebrook Rd









0 0.05 0.1 Miles

Bill Furst

Sarasota County Property Appraiser



*This map is a product of, and prepared for use by the
Sarasota County Property Appraiser's Office*

No warranties are expressed or implied

RESPONSE TO PROPOSED S&J PROPERTIES OF SW FL, LLC
REZONING PETITION 07-07RZ.01 TO RESIDENTIAL,
MULTIPLE-FAMILY 3 WITH ELIMINATION OF THE 2008
APPROVAL STIPULATIONS

Submitted to the City of Venice City Council
September 13, 2016 Public Hearing

Prepared by
Jan A. Norsoph, AICP
6201 Bahama Shores Dr. So.
St. Petersburg, Florida 33705

For the
Sorrento Ranches Homeowners Association, Inc.

INTRODUCTION

S&J properties is requesting to retain the current Residential, Multiple-Family-3 (RMF-3), but eliminate the five stipulations that were put in-place as conditions of approval at the June 10, 2008 City Council hearing (Ordinance No. 2008-09). The stipulations of the approval were as follows:

1. Require non-vehicular connectivity between this parcel and the eastern property.
2. Height limit of 35 feet.
3. Density not to exceed eight units per acre.
4. A vegetative buffer shall be placed along the southern boundary of the property at a 70% opacity immediately adjacent to the 175 foot FPL easement with the exception of the wetland on the southern boundary, no vegetative buffer shall be placed between the wetland on the southern boundary of the property; and
5. Venetian Gateway (VG) standards relating to architectural design and signage standards.

Although the Sorrento Ranches Homeowners Association, Inc. (SRHA) concluded that a maximum density of five (5) dwelling units/acre was appropriate relative to the 2008 S&J rezoning petition, they agreed to eight (8) dwelling units/acre (du/ac) with height limited to 35 feet, and the five current stipulations being an integral part of their agreement with the S&J property owner. It is noted that the Applicant's attorney, Mr. Boone, stated at the April 5, 2016 Planning Commission public hearing that the buffer, Stipulation #4, would be retained.

The Applicant has claimed that the removal of the stipulations is required to develop the site for rental apartments. Yet, no stipulation has been proposed by the Applicant to guarantee developing the site for apartments. Further, the Applicant has not provided any feasibility analysis that indicates this site can only be developed with apartments at 13 dwelling units/acre (du/ac), and that no other apartment sites are available within the City. Nor has the Applicant presented any feasibility analysis that indicates this site cannot be developed for multi-family residential at a density of eight (8) du/ac. **Such a basis for the removal of the stipulations is purely speculative, and therefore, has no basis in finding of facts for consideration by the City Council. It is important to note that the Applicant's attorney in response to a question by a Planning Commission member stated that the S&J property could be developed under the current zoning with the five stipulations.**

And finally, it is significant to note that the Planning Commission, found the rezoning to be inconsistent with the LDR, specifically recognizing the failure to meet Rezoning criteria f, g, k and n; and voted 5-1 to DENY the rezoning.

This report will demonstrate the rationale for the City Council to deny the request, as recommended by the Planning Commission, and therefore, require S&J Properties to abide by the five stipulations.

This report provides an analysis of the following:

- Analysis of Compatibility as related to identification of relevant Comprehensive Plan goals and policies, and the 2010 JPA that document the failure of the rezoning petition to meet compatibility criteria relative to density and height.

- Analysis of the petition relative to the failure of the rezoning petition to meet key rezoning review criteria.

Based on the following analysis, the rezoning petition is NOT in compliance with the compatibility criteria and other comprehensive plan policies; therefore, as recommended by the Venice Planning Commission, the Sorrento Ranches Homeowners Association, Inc. urges that the Venice City Council DENY the rezoning petition and require the applicant to comply with the original five stipulations imposed by the Venice City Council in the 2008 rezoning approval.

CRITERIA FOR ANALYSIS OF COMPATIBILITY

THE COMPREHENSIVE PLAN

The City of Venice addresses protection of neighborhoods through its 2010 Comprehensive Plan and Land Development Code (LDC). The City's Comprehensive Plan requires compatibility between developments, as well as, protecting the integrity and character of the City. The key goal, objectives and policies that require development/redevelopment to protect the character of the City and be compatible with the surrounding development character are cited below. Key phrases are highlighted and/or bolded for emphasis and are the key basis of this analysis.

FUTURE LAND USE ELEMENT

GOAL PROVIDE AN EXCEPTIONAL PLACE TO LIVE, WORK, AND PLAY THROUGH LIVABLE COMMUNITY PRACTICES.

Objective 1 Livable Community Principles and Practices. Utilize the Venice planning framework's livable community principles and practices as the basis for future development.

Policy 1.11 **Neighborhood Character Preservation.** Protect the unique character of residential neighborhoods by eliminating incompatible uses and prohibiting the relocation of such incompatible uses if the relocation would result in negative impacts to other existing or proposed residential neighborhoods.

Objective 8 Petition Review Criteria. Implement the City's livable community planning framework and development standards consistent with the City's Venice Strategic Plan 2030, Envision Venice Evaluation and Appraisal Report (EAR), Chapter 163, Part II, F.S., and Rule 9J-5, F.A.C. by utilizing the following planning practices, standards, review procedures, and criteria to evaluate annexation, rezoning, conditional use, special exception, and site and development plan petitions.

Policy 8.1 Smart Growth and Sustainable Development Practices. Ensure that all development projects utilize best practices for smart growth and sustainability by implementing the following sustainable development standards:

- A. Provide a balance of land use and infrastructure capacity in developed areas through a focus on infill and redevelopment projects consistent with the character of the City.
- B. Foster compact forms of development within designated infill, redevelopment, and new growth corridors.
- C. Protect natural habitats and environmental areas through conservation practices.
- D. Minimize sprawl by discouraging growth and development in undeveloped areas where infrastructure does not exist and where inconsistent with the environmental character of the area.
- E. Include transitioning and buffering between different heights, densities, and intensities.**

Policy 8.2 Land Use Compatibility Review Procedures. **Ensure that the character and design of infill and new development are compatible with existing neighborhoods. Compatibility review shall include the evaluation of:**

- A. Land use density and intensity.**
- B. Building heights and setbacks.**
- C. Character or type of use proposed.
- D. Site and architectural mitigation design techniques.**

Considerations for determining compatibility shall include, but are not limited to, the following:

- E. Protection of single-family neighborhoods from the intrusion of incompatible uses.
- F. Prevention of the location of commercial or industrial uses in areas where such uses are incompatible with existing uses.
- G. The degree to which the development phases out nonconforming uses in order to resolve incompatibilities resulting from development inconsistent with the current Comprehensive Plan.
- H. Densities and intensities of proposed uses as compared to the densities and intensities of existing uses.**

Potential incompatibility shall be mitigated through techniques including, but not limited to:

- I. Providing open space, perimeter buffers, landscaping and berms.**
- J. Screening of sources of light, noise, mechanical equipment, refuse areas, delivery and storage areas.**
- K. Locating road access to minimize adverse impacts.
- L. Adjusting building setbacks to transition between different uses.

M. Applying step-down or tiered building heights to transition between different uses.

N. Lowering density or intensity of land uses to transition between different uses.

Objective 13 Future Land Use Designations. Foster the City's future development by designating land uses consistent with Venice's livable community planning framework as depicted on the Future Land Use Map (Map FLUM-1).

Policy 13.1 **Residential Future Land Uses.** The term "residential" describes a place of temporary or permanent habitation. Residential land uses do not include transient or resort rentals defined as the rental or lease of any residential units for a period of less than three (3) months.

Each of the Future Land Use Map categories that allow residential uses set forth the allowable density range for that category. **The exact density appropriate for each land tract will be determined at the time of rezoning. A proposed rezoning will be reviewed for consistency with the compatibility criteria set forth in Policy 8.2 of the Future Land Use & Design Element and is not entitled to the maximum allowable density for its Future Land Use Map category** absent an affirmative finding of the City Council on each consideration set forth in Policy 8.2 E through H which is relevant to the rezoning. A proposed rezoning must also comply with all other policies applicable to a determination of density.

Appropriate densities within each density range shall be determined, in part, by the land uses and land use designations surrounding the parcel. Generally, densities at the higher end of the range will be most appropriate next to residential development or designations of comparable or higher density and intensive non-residential land uses or land use designations such as commercial, office, professional and institutional uses. **Densities at the lower end of the range will be more appropriate adjacent to lower density residential uses or designations.**

Policy 18.12 **Laurel Road Mixed Use Neighborhood Standards.** Development in the Laurel Road Mixed Use Neighborhood shall reflect the following development scenario:

A. The maximum residential density in this neighborhood shall not exceed 8 units per acre, calculated on a gross acreage basis.

1. Residential uses shall be concentrated in Subarea No. 1 and may be allowed in Subarea No. 2, north of Laurel Road, so long as such uses are compatible with adjacent uses, as described in Objective 8, Policy 8.2 of this Element.

B. Building envelope:

1. Height standards shall be:
 - a. Subarea No. 1: Maximum height shall be limited to 2 stories, up to 35' including parking.
 - b. Subarea No. 2: Maximum height shall be limited to 3 stories, up to 42' including parking.
 - c. Subarea No. 3: Maximum height shall be limited to 3 stories, up to 42' including parking.
2. Mitigating techniques as described in Objective 8, Policy 8.2 of this Element shall be required to ensure compatibility with adjacent uses.

The Joint Planning Agreement (JPA/ILSBA) also defines compatibility measures. Pursuant to the JPA Section 10 (I):

The City agrees to use the County land use compatibility principles during the review of each zoning petition for any parcel located within the Joint Planning Areas set forth on Exhibit A and on properties within the City adjoining such areas. Within the Coordination and Cooperation Areas set forth on Exhibit A, the County agrees not to revise its future land uses prior to confirmation of compatibility by the City. **The land use compatibility reviews referenced above shall include an evaluation of land use density, intensity, character or type of use proposed, and an evaluation of site and architectural mitigation design techniques.** Potential incompatibility shall be mitigated through techniques including, but not limited to: (i) providing open space, perimeter buffers, landscaping and berms; (ii) screening of sources of light, noise, mechanical equipment, refuse areas, delivery areas and storage areas; (iii) locating road access to minimize adverse impacts, **increased building setbacks, step-down in building heights; and (iv) increasing lot sizes and lower density or intensity of land use.**

Although compatibility is defined in the Comprehensive Plan, pursuant to Florida Statute, taken collectively from the above goal, objectives and policies, compatibility can be summarized as:

Sensitivity of a development to the existing character of surrounding development character. This is measured by how the intensity and design of a development and its building components relate to the design elements of the surrounding natural/physical and manmade environment. Compatibility is achieved by measures such as, but is limited to: lowering densities to transition to different adjacent land uses and densities, transition of building height between adjacent development, buffering of different land uses and densities via landscape buffering and placement of open spaces.

As defined by the above goal, objectives and policies the proposed rezoning and development scale must be evaluated for its compatibility with the adjacent development character. Based on the aforementioned Comprehensive Plan objectives and policies, the City Council can make a finding that the density, scale and height of potential development, via the rezoning petition, is incompatible with the single-family residential development character to the south, as recommended by the Planning Commission, and therefore, is inconsistent with the Comprehensive Plan.

S&J REZONING INCOMPATIBILITY ANALYSIS

DENSITY INCOMPATIBILITY

The Applicant's request for 13 dwelling units/acre does not meet the compatibility criteria. The density surrounding the S&J property is significantly less than 13 dwelling units/acre as illustrated on Exhibits A and B and described below:

- North: Maximum 8 dwelling units/acre pursuant to the JPA/ILSBA.
- East: Maximum 8 dwelling units/acre pursuant to the JPA/ILSBA. It is noted that this site is partially developed with the Plaza Venezia retail center. **This center is currently developed at an FAR of 0.08, where a maximum FAR of 2.0 is permitted. Further, it is important to note that approximately 53 percent of the eastern S&J property boundary (672 feet of the total 1,256 feet) is adjacent to a large wetland; therefore, only 47 percent of the site is adjacent to low intensity commercial development.**
- West: County Moderate Density Residential ($\geq 2 < 5$ dwelling units/acre). It is noted that this area is developed with the Laurel Nokomis Middle/Elementary school and a school maintenance facility. **Schools are not an intensive use, and further, the school is approximately 631 feet west of the S&J property.**
- South: County Low Density Residential (< 2 dwelling units/acre) and City of Venice Low Density Residential ($0 > 5$ dwelling units/acre). **This area is developed with Sorrento Ranches (actual density: 1 du/5 ac) and Windwood (actual density: 2.0 du/ac), both single-family developments. These actual densities form the basis of any compatibility analysis.**

Pursuant to the various comprehensive plan compatibility policies, the designated maximum future land use density (MDR: 13 du/ac) on the site is not a guarantee, especially, if compatibility criteria are not met. Policy 13.1 states:

Each of the Future Land Use Map categories that allow residential uses set forth the allowable density range for that category. The exact density appropriate for each land tract will be determined at the time of rezoning. A proposed rezoning will be reviewed for consistency with the compatibility criteria set forth in Policy 8.2 of the Future Land Use & Design Element **and is not entitled to the maximum allowable density for its Future Land Use Map category** absent an affirmative finding of the City Council on each consideration set forth in Policy 8.2 E through H which is relevant to the rezoning.

The following excerpts of relevant compatibility policies and the JPA apply to the compatibility review of this rezoning petition and **dictate that a maximum density of eight (8) dwelling units/acre is appropriate to address Policy 8.2 compatibility review criteria.**

Policy 8.2 Land Use Compatibility Review Procedures. Ensure that the character and design of infill and new development are compatible with existing neighborhoods.

Compatibility review shall include the evaluation of:

- A. Land use density and intensity.
- E. Protection of single-family neighborhoods from the intrusion of incompatible uses.
- H. Densities and intensities of proposed uses as compared to the densities and intensities of existing uses.
- N. Lowering density or intensity of land uses to transition between different uses.

Response to Criteria A, E, H and N:

As described previously, the surrounding future land use designations range from less than two (2) dwelling units/acre to a high of eight (8) dwelling units/acre. The actual surrounding densities are much less; 1 du/5 ac and 2.0 du/ac. No other land use designation adjacent to the S&J property exceeds eight (8) dwelling units/acre. Based on Policies 8.2 and 13.1 and JPA/ILSBA, the lower end of the density range would dictate that five (5) du/ac is the most appropriate density for the S&J property. This density was deemed appropriate by Sorrento Ranches Homeowners Association; however, as part of a mutual agreement between the Sorrento Ranches Homeowners Association and the S&J property owner on the 2008 rezoning, eight (8) du/ac was acceptable along with the five stipulations.

There are a number of other comprehensive plan policies that provide specific guidance in addressing density compatibility criteria A, E, H and N, which dictate the density for S&J rezoning should be a maximum of eight (8) dwelling units/acre, which is an appropriate transition with the surrounding density as described above. These policies include the following:

- Policy 1.11 Neighborhood Character Preservation. Protect the unique character of residential neighborhoods by eliminating incompatible uses and prohibiting the relocation of such incompatible uses if the relocation would result in negative impacts to other existing or proposed residential neighborhoods.
- Policy 8.1 Smart Growth and Sustainable Development Practices.
 - E. Include transitioning and buffering between different heights, densities, and intensities.
- Policy 13.1 **The exact density appropriate for each land tract will be determined at the time of rezoning.** A proposed rezoning will be reviewed for consistency with the compatibility criteria set forth in Policy 8.2 of the Future Land Use & Design Element and is not entitled to the maximum allowable density for its Future Land Use Map category.

Appropriate densities within each density range shall be determined, in part, by the land uses and land use designations surrounding the parcel. **Densities at the lower end of the range will be more appropriate adjacent to lower density residential uses or designations.**

- Policy 18.12 Laurel Road Mixed Use Neighborhood Standards. Development in the Laurel Road Mixed Use Neighborhood shall reflect the following development scenario:

C. The maximum residential density in this neighborhood shall not exceed 8 units per acre, calculated on a gross acreage basis.

- The JPA/ILSBA, Section 10(I) requires land use compatibility reviews to include an evaluation of land use density, intensity, character or type of use proposed, and an evaluation of site and architectural mitigation design techniques. Potential incompatibility shall be mitigated through techniques including, but not limited to: (i) providing open space, perimeter buffers, landscaping and berms; ... and (iv) **increasing lot sizes and lower density or intensity of land use.**

Response to the above Policies and JPA:

Pursuant to the comprehensive plan, the maximum residential density is required to be addressed at the rezoning. It is significant to note that the maximum density set by the Laurel Road JPA Area, a large mixed-use intensive designation, is a maximum of only eight (8) dwelling units/acre. Therefore, the JPA has in fact, established that the compatible maximum density for this entire area, including the S&J property, is eight (8) dwelling units/acre.

The request for 13 dwelling units/acre would represent a 62.5 percent increase in density over the maximum permitted density within the Laurel Road JPA Area, a 550 percent increase in density from the adjacent Sorrento Ranches maximum permitted density (< 2 dwelling units/acre) and 160 percent increase over the Windwood development permitted maximum density (5 du/ac). As stated previously, the actual developed densities at Sorrento Ranches and Windwood are 1 du/5ac and 2.0 du/ac, respectively.

The Applicant has made reference to justification for the density increase based on the section of Policy 13.1 that states, "densities at the higher end of the range will be most appropriate next to residential development or designations of comparable or higher density and intensive non-residential land uses such as commercial, office, professional and institutional uses." However, this section of the policy is not relevant, as all surrounding densities must be considered in the compatibility analysis, not just selected sides that benefit the Applicant. The S&J site has very low density to the south (1 du/5 ac and 2/du/ac) and a maximum density to the north and east of eight (8) du/ac. The request for 13 du/ac is significantly higher than the surrounding maximum permitted densities, and the actual surrounding residential densities. Therefore, the request for 13 du/ac is not compatible.

As stated previously, the JPA/ILSBA is intended to create an intense mixed-used development (commercial/residential), and yet the JPA establishes the maximum residential compatibility density at 8 du/ac, not 13 du/ac.

Approving 13 du/ac creates an island of significantly higher density adjacent to much lower residential density, which is the exact opposite of Policy 13.1, which states "Densities at the lower end of the range will be more appropriate adjacent to lower density residential uses or designations."

Further, the request for the density increase is being founded on the desire to construct rental apartments, yet no stipulation regarding a commitment to such development has been proffered. There are no comprehensive plan goals, objectives or policies that require a developer be guaranteed maximum profitability or development density. Such a basis for the removal of the density stipulation is purely speculative, and therefore, has no basis in finding of facts for consideration by the City Council.

CONCLUSION

Based on the aforementioned Comprehensive Plan objectives and policies, and compatibility analysis, the City Council can make a finding that the density and scale of the proposed rezoning at 13 dwelling units/acre, is incompatible with the single-family residential development character to the south, as recommended by the Planning Commission, and therefore, is inconsistent with the Comprehensive Plan and fails to meet compatibility criteria. The request for 13 dwelling units/acre would represent a 62.5 percent increase in density over the maximum permitted density within the Laurel Road JPA Area, a 550 percent increase in density from the adjacent Sorrento Ranches maximum permitted density and a 160 percent increase over the Windwood development maximum permitted density.

Based on the above analysis, the appropriate density for the S&J property is eight (8) dwelling units/acre consistent with the comprehensive plan compatibility criteria and the JPA/ILSBA.

HEIGHT INCOMPATIBILITY

The Applicant has also requested removal of the maximum 35 foot height limit. The removal of the height limit could permit buildings 45 feet in height and potentially 55 feet in height with parking underneath. This change would constitute incompatibility with the surrounding development and height limits pursuant to the comprehensive plan policies and criteria. Exhibit C illustrates the maximum height limits permitted on the properties surrounding the S&J property.

The following excerpts of relevant compatibility policies and the JPA apply and dictate that the 35 foot height limit is an appropriate transition to the adjacent low-density single-family residential development:

- Policy 8.2 Land Use Compatibility Review Procedures. Ensure that the character and design of infill and new development are compatible with existing neighborhoods. Compatibility review shall include the evaluation of:

B. Building heights and setbacks.

M. Applying step-down or tiered building heights to transition between different uses.

- Policy 8.1 Smart Growth and Sustainable Development Practices. Ensure that all development projects utilize best practices for smart growth and sustainability by implementing the following sustainable development standards:

E. Include transitioning and buffering between different heights, densities, and intensities.

- Policy 18.12 Laurel Road Mixed Use Neighborhood Standards. Development in the Laurel Road Mixed Use Neighborhood shall reflect the following development scenario:

B. Building envelope:

1. Height standards shall be:
 - a. Subarea No. 1: Maximum height shall be limited to 2 stories, up to 35' including parking. [Author Note: Area northwest of S&J Property]
 - b. Subarea No. 2: Maximum height shall be limited to 3 stories, up to 42' including parking. [Author Note: Area north of S&J Property]
 - c. Subarea No. 3: Maximum height shall be limited to 3 stories, up to 42' including parking. [Author Note: Area east of the S&J property]

- The JPA/ILSBA, Section 10(I) requires land use compatibility reviews to include an evaluation of land use density, intensity, character or type of use proposed, and an evaluation of site and architectural mitigation design techniques. Potential incompatibility shall be mitigated through techniques including, but not limited to: (iii) locating road access to minimize adverse impacts, increased building setbacks, step-down in building heights.

Responses to the above Policies:

The potential for 45'-55' high buildings is incompatible with the single-family residential development character to the south, and therefore, is inconsistent with the Comprehensive Plan and fails to meet compatibility criteria as recommended by the Planning Commission. Based on the aforementioned Comprehensive Plan objectives and policies, and in particular, the JPA, the maximum height permitted is 42 feet, including parking. The compatibility analysis dictates that a transition or step-down is

the appropriate mitigation measure to create compatibility with the adjacent Sorrento Ranches and Windwood developments.

CONCLUSION:

The City Council can make a finding that the current 35 foot height limit imposed as a condition of the 2008 rezoning is appropriate as it provides an appropriate and compatible transition in the height and scale of development with the adjacent Sorrento Ranches and Windwood residential developments to the south, and the Laurel Road JPA.

REZONING PETITION ANALYSIS

Pursuant to Sec. 86-47. Amendments to the land development code, when pertaining to the rezoning of land, the report and recommendations of the planning commission to the city council shall show that the planning commission has studied and considered the proposed change in relation to the sixteen criteria.

THE PROPOSED REZONING DOES NOT MEET A NUMBER OF THE REZONING REVIEW CRITERIA.

The following provides an analysis of the proposed rezoning petition relative to the Comprehensive Plan and LDC. Below are responses to relevant criteria:

- a. Whether the proposed change is in conformity to the comprehensive plan.

Response: The proposed change is not in conformity with the comprehensive plan, as it does not meet compatibility criteria. Policy 13.1 states "Densities at the lower end of the range will be more appropriate adjacent to lower density residential uses or designations." The requested density increase is significantly higher than the maximum density set by the JPA/ILSBA, a large mixed-use intensive designation, which establishes a maximum residential density of only eight (8) dwelling units/acre. Therefore, the JPA has in fact, established that the compatible maximum density for this entire area, including the S&J property, is eight (8) dwelling units/acre.

The request for 13 dwelling units/acre would represent a 62.5 percent increase in density over the maximum permitted within the Laurel Road JPA Area, a 550 percent increase in density from the adjacent Sorrento Ranches maximum permitted density (< 2 dwelling units/acre) and 160 percent increase over the Windwood development (0-5 du/ac). The actual developed densities at Sorrento Ranches and Windwood, is 1 du/5ac and 2.0 du/ac, respectively. The requested density is not compatible with the surrounding neighborhood and is significantly out-of-scale with these residential neighborhoods as well as the JPA/ILSBA.

- b. The existing land use pattern.

Response: As noted in criteria "a" above, the requested density and height are not compatible with the existing single-family development pattern or the proposed residential development pattern pursuant to the JPA/ILSBA.

- c. Possible creation of an isolated district unrelated to adjacent and nearby districts.

Response: The requested density increase would create an island of high density residential adjacent to very low density single-family residential (1 du/5ac and 2.0 du/ac) to the south and the JPA/ILSBA maximum density of 8 du/ac) to the north.

- f. Whether changed or changing conditions make the passage of the proposed amendment necessary.

Response: The Applicant has claimed that the removal of the stipulations is required to develop the site for rental apartments. Yet, no stipulation has been proposed by the Applicant to guarantee developing the site for apartments. **Such a basis for the removal of the stipulations is purely speculative, and therefore, has no basis in finding of facts for consideration by the City Council.**

- g. Whether the proposed change will adversely influence living conditions in the neighborhood.

Response: The proposed change will adversely influence living conditions in the neighborhood. The actual developed densities at Sorrento Ranches and Windwood, are 1 du/5ac and 2.0 du/ac, respectively. The requested density of 13 du/ac is significantly out-of-scale with these residential neighborhoods, as well as, the JPA/ILSBA, and therefore, fails to meet comprehensive plan compatibility criteria and noted throughout this report.

- k. Whether the proposed change will adversely affect property values in the adjacent area.

Response: Based on the failure of the proposed rezoning to meet compatibility criteria, there could be an adverse impact on adjacent single-family residential property values.

- l. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accord with existing regulations.

Response: Based on the failure of the proposed rezoning to meet compatibility criteria, there could be a deterrent to improvements to the adjacent single-family residential properties.

- m. Whether the proposed change will constitute a grant of special privilege to an individual owner as contrasted with the public welfare.

Response: The proposed change is not in conformity with the comprehensive plan, as it does not meet compatibility criteria. As such, the request is not in the public's interest to be granted. The requested density increase is significantly higher than the maximum density set by the Laurel Road JPA Area, a large mixed-use intensive designation, which is a maximum of only eight (8) dwelling units/acre. Therefore, the JPA has in fact, established that the compatible maximum density for this entire area, including the S&J property, is eight (8) dwelling units/acre. The actual developed densities at Sorrento Ranches and Windwood, are 1 du/5ac and 2.0 du/ac, respectively; therefore, the requested density is not compatible with the surrounding neighborhood and is in fact, significantly out-scale with these residential neighborhoods, as well as, the JPA/ILSBA.

- n. Whether there are substantial reasons why the property cannot be used in accord with existing zoning.

Response: The Applicant has claimed that the removal is required to develop the site for rental apartments. Yet, no stipulation has been proposed by the Applicant to guarantee developing the site for apartments. Further, the Applicant has not provided any feasibility analysis that indicates this site can only be developed with apartments, and that no other apartment sites exist within the City. Nor has the Applicant presented any feasibility analysis that indicates this site cannot be developed for any multi-family residential at a density of only eight (8) du/ac. **Such a basis for the removal of the stipulations is purely speculative, and therefore, has no basis in finding of facts for consideration by the City Council. Further, it is important to note that the Applicant's attorney in response to a question by a Planning Commission member stated that the S&J property could be developed under the current zoning with the five stipulations.**

- o. Whether the change suggested is out of scale with the needs of the neighborhood or the city.

See response to criteria "n" above.

p. Whether it is impossible to find other adequate sites in the city for the proposed use in districts already permitting such use.

See response to criteria "n" above.

SORRENTO RANCHES HOMEOWNERS ASSOCIATION
RECOMMENDATION TO THE CITY COUNCIL

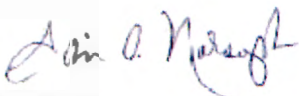
The proposed rezoning to remove the five stipulations is not consistent with nor meets the compatibility criteria of the comprehensive plan. As analyzed in this report, these policies include 1.11, 8.1, 8.2, 13.1 and 18.2, and JPA/ILSBA, Section 10(I).

Based on the above analysis, the appropriate density for the S&J property is eight (8) dwelling units/acre consistent with the comprehensive plan compatibility criteria and the JPA/ILSBA. The 35 foot height limit imposed as a condition of the 2008 rezoning is appropriate as it provides a transition in the scale of development with the adjacent Sorrento Ranches and Windwood single-family residential developments to the south, and the JPA/ILSBA to the north.

Further, the Applicant has claimed that the removal of the stipulations is required to develop the site for rental apartments. Yet, no stipulation has been proposed by the Applicant to guarantee developing the site for apartments. Further, the Applicant has not provided any feasibility analysis that indicates this site can only be developed with apartments at 13 dwelling units/acre, and that no other available apartment sites exist within the City. Nor has the Applicant presented any feasibility analysis that indicates this site cannot be developed for any multi-family residential at a density of eight (8) dwelling units/acre. Such a basis for the removal of the stipulations is purely speculative, and therefore, has no basis in finding of facts for consideration by the City Council.

And finally, it is significant to note that the Planning Commission, found the rezoning to be inconsistent with the LDR, specifically recognizing the failure to meet Rezoning criteria f, g, k and n, and voted 5-1 to DENY the rezoning.

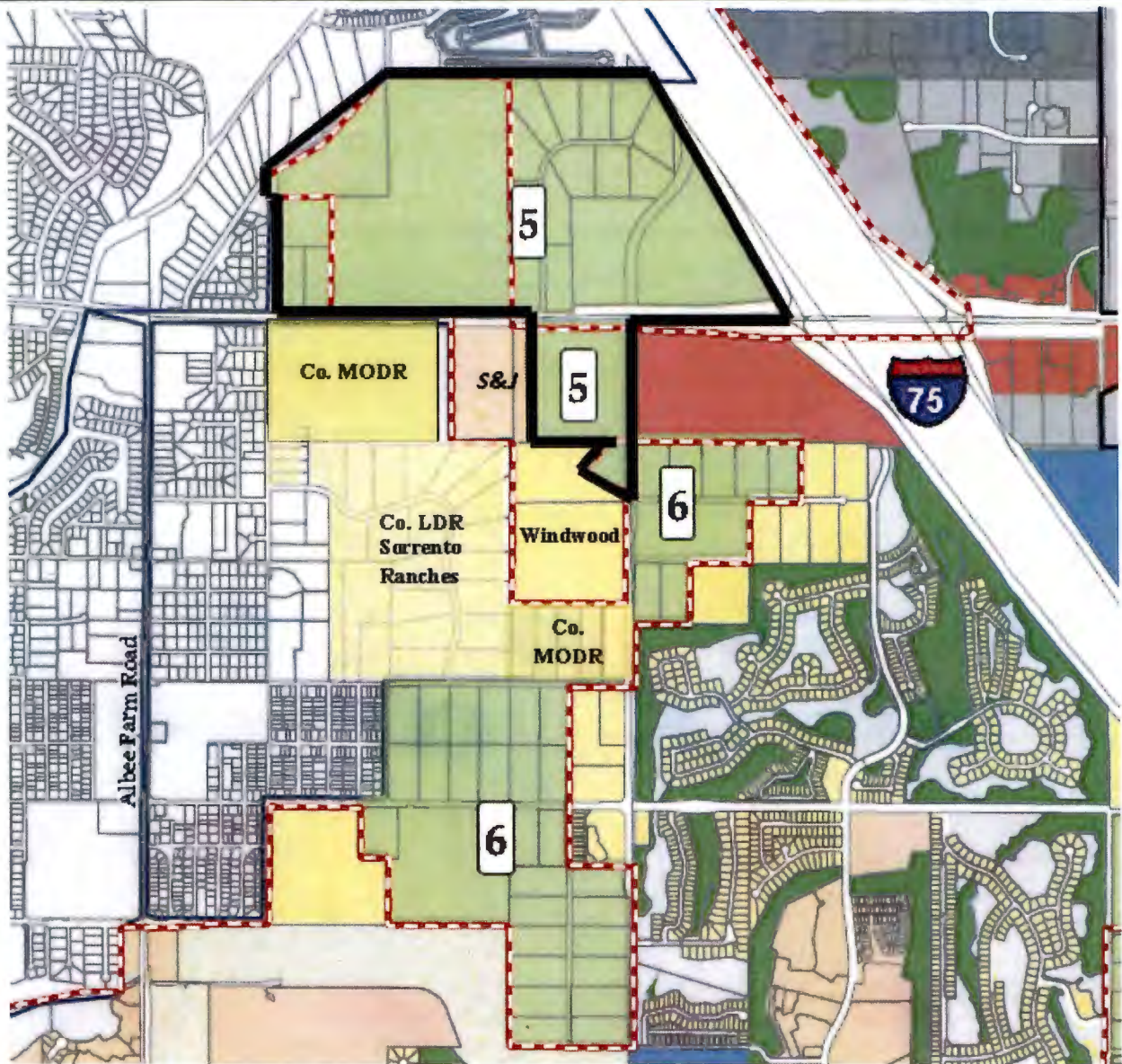
Jan A. Norsoph, AICP



Mr. Norsoph reserves the right to amend this report based upon new information.

EXHIBITS A-B

- **Exhibit A: City of Venice/Sarasota County FLUM**
- **Exhibit B: Surrounding Density Patterns**
- **Exhibit C: Surrounding Height Limits**



City of Venice 2030 Future Land Use Map

- LOW DENSITY RESIDENTIAL (0-5 DU/AC)
 - MEDIUM DENSITY RESIDENTIAL (5.1-13.0 DU/AC)
 - HIGH DENSITY RESIDENTIAL
 - MIXED USE RESIDENTIAL
 - COMMERCIAL
 - RECREATION & OPEN SPACE
 - CONSERVATION
- County LDR < 2 DU/AC
 County MODR ≥ 2 < 5
- LAUREL ROAD MIXED USE JPA AREA: MAXIMUM RESIDENTIAL 8 DU/AC

Source: City of Venice FLUM, 2012

**EXHIBIT A
FLUM**





Sources: Sarasota Property Appraiser aerial
City of Venice FLUE Map -20 JPA/ILSBA Area No. 5

EXHIBIT C Surrounding Height

JAN A. NORSOPH'S RESUME

JAN ALAN NORSOPH, AICP

(727) 867-0556

jnorsoph@tampabay.rr.com

SUMMARY OF QUALIFICATIONS

Award winning professional with over 38 years of extensive and diverse planning expertise, including 24+ years of management experience; development and administration of land development regulations, historic preservation, urban design, community redevelopment, and neighborhood planning; administration of site plan/subdivision development reviews; preparation of comprehensive plans, and skills in building public participation and consensus. This includes local government experience with many different public entities, both as a planning consultant and as a City of St. Petersburg Manager.

ACCOMPLISHMENTS

Awards of Excellence (*) or Merit received by the Florida Chapter American Planning Association (FCAPA) and/or the Suncoast Section (SS) and other professional associations in recognition of professional and innovative achievements:

- MacDill AFB General Plan, Honorable Mention Future of the Region Award, Tampa Bay Regional Planning Council, and Award of Distinction, Florida Planning & Zoning Association.
- Design Guidelines Manual for the National Register/Local Historic District, City of Tarpon Springs, Florida (SS/FCAPA).
- St. Petersburg's Guidelines for Historic Properties (SS/FCAPA).
- St. Petersburg Round Lake Neighborhood Plan (SS*/FCAPA).
- St. Petersburg North Shore Neighborhood Plan (SS*/FCAPA*).
- St. Petersburg Neighborhood Design Review Ordinance and Manual (SS).
- Recognition by the Governor for the Best Large City Comprehensive Plan in Florida.
- St. Petersburg Core Area Parking Study (SS).
- St. Petersburg Bayboro Harbor Redevelopment Plan (SS*/FCAPA*).
- St. Petersburg Historic Preservation Program (SS/FCAPA).
- St. Petersburg Downtown Urban Design Plan and Intown Market Strategy (SS*).
- St. Petersburg Intown Redevelopment Plan (FCAPA).

PROFESSIONAL EXPERIENCE

Planning Consultant, St. Petersburg, Florida (January 2011 - Present) - Provide consultant services related to:

- Comprehensive planning, land development regulations, urban design, zoning and other land development related services.
- Rezoning and Special Exception Use applications.
- Eminent domain.
- Expert witness testimony.
- Work as a part-time employee for the City of Seminole Community Development Department (July 2012- present).
- Planning subconsultant services for Engelhardt, Hammer and Associates, Inc.

Vice President, Community Planning & Urban Design, Engelhardt, Hammer & Associates, Inc. (EHA), Tampa, Florida (August 1998 - January 2011). EHA is a land planning firm and my responsibilities included project development and management for public and private clients related to:

- Master planning, urban design and historic preservation.
- Neighborhood planning and community redevelopment.
- Eminent domain.
- Comprehensive planning, land development regulations, zoning and other land development related services.
- Expert witness testimony.
- Planning Consultant, St. Petersburg, Florida (July 1997 - August 1998) - Provided consultant services related to:
 - Rezoning and Special Exception Use applications.
 - Site planning.

Manager, Development Review Services Division (December 1994 - April 1997) and Manager Urban Design & Development Division (January 1984 - December 1994), City of St. Petersburg, Florida - Directed a progressive and innovative team of ten professional staff with an annual operating budget of \$400,000. Management responsibilities included:

- Administration of land development codes, and site plan and design review processes.
- Preparation of land development codes, and urban design, neighborhood and community redevelopment plans.
- Staffing the Community Redevelopment Agency, Board of Adjustment, Environmental Development Commission and Historic Preservation Commission.
- Presenting recommendations/reports before the City Council and various commissions.
- Developing strong working relationships with neighborhoods, business associations, minority groups and the development community, including serving as the City's representative on the Chamber of Commerce Downtown Council.

REPRESENTATIVE PROJECTS

Planning Consultant

- Town of St. Leo- On-going planning consultant, included preparation of the Visual Corridor Study, Town of St. Leo Land Development Code, Comprehensive Plan Evaluation and Appraisal Report, Comprehensive Plan update and on-going development review services, and land development code and comprehensive plan updates.
- Neighborhood and other type associations- Provide expert witness testimony on development reviews, special exceptions and rezonings.
- City of Temple Terrace- Revisions to Chapter 29- Downtown Redevelopment Overlay Zoning District, including design guidelines/illustrations.
- MacDill AFB General Plan.
- Historic design guidelines and manuals for the City of Tarpon Springs.
- City of Clearwater- "Enhancing the Visual Environment Through Sign Regulation." (planning and photo simulation analysis report for the City related to litigation by billboard company)
- Cultural Arts District Master Plan for the City of Tampa.
- Multiple future land use amendments, rezoning and conditional/special use applications for private clients (Cities of Pinellas Park, Venice, West Palm Beach and Tampa).
- Land development code/site plan review process analyses for private clients in preparation of due diligence and site development and landscape plan reviews (City of Venice and Collier, Sumter, Polk, DeSoto and Lee Counties).

- Eminent Domain Planning Analyses for public clients including Sumter, Lee, Collier, Hillsborough and Pinellas Counties; Florida Department of Transportation Districts One, Five and Seven (Polk, Hernando, Pasco, Manatee, Sarasota, Lee, Orange, Hillsborough, Pinellas, Brevard and Osceola Counties), and Orange County Public Schools.
- Eminent Domain Planning Analyses for private clients in Charlotte, Escambia, Santa Rosa, Duval, Columbia, Clay, Leon, Palm Beach, Orange, Indian River, Polk, Pasco, Lee, Hillsborough, Seminole, Osceola, Hernando, Citrus, Hendry and Sarasota counties.
- Expert Witness Testimony, including eminent domain trials (8) and a land use litigation case. Qualified as an expert in courts in Charlotte, Hendry, Hillsborough, Polk, Pasco and Pinellas counties and U.S. District Court Middle District (Tampa).

City of St. Petersburg

- Administered zoning code and site plan/neighborhood design review, and implemented streamlining processes and enhanced customer service procedures.
- Authored land development codes related to new zoning districts, Neighborhood Design Review, historic preservation, CBD bonus FAR criteria, airport height regulations, wireless communication towers and sidewalk cafes.
- Developed and administered five Community Redevelopment/Tax Increment Finance districts with over \$340 million in capital projects, including the Downtown/Waterfront, Major League Baseball (Tampa Bay Rays) stadium area and Salt Creek marine services/Port/University of South Florida district.
- Prepared urban design plans for downtown waterfront, commercial corridors, neighborhoods and community redevelopment areas including conceptual site plans, and building façade/streetscape designs.
- Prepared and implemented four neighborhood plans (total population-15,000) with a \$7.4 million capital budget, and development of a minority neighborhood commercial corridor revitalization plan.
- Administered the historic preservation program.
- Prepared comprehensive plan elements including Intown Planning Sector, Historic Preservation and Port/Airport.

EDUCATION

- Master of Science in Planning, Florida State University (Urban Design specialty).
- Bachelor of Science, Secondary Education- Geography, West Chester State University (Magna Cum Laude).

PROFESSIONAL ASSOCIATIONS AND CONTINUING EDUCATION

- American Institute of Certified Planners (AICP) with Continuing Professional Development Certificate.
- American Planning Association.
- Speaker at planning, historic preservation and urban design workshops at national, state and local conferences.

B. Land Use Compatibility

Compatibility review evaluation

Why are text outlined in red not highlighted?

County: land use density, intensity, character or type of use proposed and site and architectural mitigation design techniques.

City: land use density and intensity, building heights and setbacks, character or type of use proposed and site and architectural mitigation design techniques

Mitigation techniques

County: (i) providing open space, perimeter buffers, landscaping and berms, (ii) screening of sources of light, noise, mechanical equipment, refuse area, delivery areas and storage areas, (iii) locating road access to minimize adverse impacts, increased building setbacks, step-down in building heights, and (iv) increasing lot sizes and lower density or intensity of use.

City: I. Providing open space, perimeter buffers, landscaping and berms. J. Screening of sources of light, noise, mechanical equipment, refuse areas, delivery and storage areas. K. Locating road access to minimize adverse impacts. L. Adjusting building setbacks to transition between different uses. M. Applying step-down or tiered building heights to transition between different uses. N. Lowering density or intensity of land uses to transition between different uses.

B. Land Use Compatibility

Pursuant to Policy 13.1, the staff report evaluates each consideration set forth in Policy 8.2 E thru H.

E. Protection of single-family neighborhoods from the intrusion of incompatible uses (staff report pages 11 and 12)

Matters included in staff's evaluation:

- Comprehensive plan definition of compatibility – a condition in which land uses or use or condition is unduly negatively impacted directly or indirectly by another use or condition.
- The comprehensive plan does not specify what land uses are compatible and what land uses are incompatible.
- Generally, like uses (e.g. residential next to residential) are considered to be compatible; however, differences in density need to be evaluated.
- Policy 13.1 (4th paragraph) provides guidance on the appropriateness of densities within each density range (low, medium and high density); the policy does not specify needed action if adjacent densities are deemed inappropriate. Staff has conservatively assumed mitigation is needed if densities are deemed inappropriate
- The appropriateness of one residential designation adjacent to another residential designation (e.g. medium density residential [5.1 to 13 dus/ac.] adjacent to low density residential [up to 5 dus/ac.]. This is not specified in the comprehensive plan; it is a logical and reasonable extrapolation of Policy 13.1 which has been used by staff in other rezoning petitions to address the lack of direction provided by the comprehensive plan

Policy is very specific, uses the term "shall"

Policy is very specific, "Densities at the lower end of the range will be more appropriate adjacent to lower density residential uses or designations."

C. Maintaining comprehensive plan consistency if stipulations are eliminated

2. Height limit of 35 feet.

The comprehensive plan has no maximum height standard that applies to the subject property. If this stipulation is eliminated the property will be subject to the maximum building height standard for the RMF-3 district which is 45 feet; an additional 10 feet for one story devoted primarily to parking within the structure may be added to the limit.

However, the Laurel Road JPA does establish height limits on the properties adjacent to S&J; Policy 18.12:

B. Building envelope:

1. Height standards shall be:

- a. Subarea No. 1: Maximum height shall be limited to 2 stories, up to 35' including parking. [Area northwest of S&J Property]
- b. Subarea No. 2: Maximum height shall be limited to 3 stories, up to 42' including parking. [Area north of S&J Property]
- c. Subarea No. 3: Maximum height shall be limited to 3 stories, up to 42' including parking. [Area east of the S&J property]

AND

per JPA Agreement: Sec. 10(I): Potential incompatibility shall be mitigated through techniques including, but not limited to:.. step-down in building heights.

C. Maintaining comprehensive plan consistency if stipulations are eliminated

3. Density shall not exceed eight units per acre.

If this stipulation is eliminated, the subject property will have a RMF-3 district maximum density of 13 units/acre which is consistent with the property's medium density residential future land use map designation.

Fails to recognize Policy 13.1 in its entirety

The exact density appropriate for each land tract will be determined at the time of rezoning. A proposed rezoning will be reviewed for consistency with the compatibility criteria set forth in Policy 8.2 of the Future Land Use & Design Element and is not entitled to the maximum allowable density for its Future Land Use Map category. Appropriate densities within each density range shall be determined, in part, by the land uses and land use designations surrounding the parcel. Densities at the lower end of the range will be more appropriate adjacent to lower density residential uses or designations.

Excerpts of Comments

City of Venice Planning Commission

Public Hearing April 5, 2016

Rezone 07-07RZ.1 (S&J Properties)

[Recommended Denial, 5 (Newsom, Snyder, Towery, Graser, Fawn) to 1 (Moore)]

Planning Commissioner Charles Newsom: "My only concern in this whole thing is I'm very concerned about protecting let's call it the quality of life of the properties to the southern side of this. So I went out in front of my house and I measured 170 feet (referring to the width of the FPL easement on the subject site facing the large-lot homes of Sorrento Ranches), down the sidewalk to see where it was to my neighbor. 170 feet sounds like a lot but it's not. You can see everything, hear everything. As a matter of fact I spoke to one of my neighbors down 170 feet and we could converse pretty easily. So noise from the complex and all that became an issue."

Planning Commission Chair Barry Snyder : "I always get into problems when we don't have a specific plan of what this will be and whether the proposed change will adversely influence the living conditions in a neighborhood. That's the one that always causes me to stumble ... If you want a certain density to be there, then you put that in the rezoning and it carries through to the site and development plan, and that's kind of what we have here ... We have no guarantee it's going to be apartments ... workforce housing ... we have no guarantee that's what it's going to be ... On the compatibility part of this, I'm faced with 8 units (per acre) density-wise, north of there (north of the S&J property). I'm faced with .2 density (per acre) south of there. I'm faced with commercial intensity to the right and a government school to the left. ... What I see is that this is higher and more intense potentially than anything around it."

Planning Commissioner Jerry Towery: "My concern is also compatibility. I realize they've based the density on the over-all piece of property, but we've had a lot of testimony about how constrained this property is. So that part that's going to be built is going to be extremely dense. It has to be ... and much higher than 13 (units per acre) potentially (if that is the gross density given to it). And again it would be wonderful if we had a plan in front of us but we don't. So my feeling is, based on compatibility and the effect on the property to the south of it, I do lean towards three of the stipulations staying in: the one that has been stipulated to stay in, the one for buffering, but I feel the density at 8 (units per acre) and the height at 35 (feet) is appropriate for this area, for this specific piece of property, based on all the circumstances."

Planning Commissioner Shaun Graser: "What kind of bothers me is the fact that basically you have two people ... two entities, you've got the Sorrento Ranches organization and you've got the owner of this property, who already made a deal, they've already agreed on something, and it seems to me the Sorrento Ranches people are very easy to get along with. Dr. Burrus said, 'We will still negotiate, we still are willing to talk, but nobody's talking to us at this point.' So it seems to me that we're just trying

to undo a deal that has already been made. Well, to me if I make a deal, it's a deal. So what if we had a piece of property that absolutely, positively can't be developed and this guy is sitting on acres that nothing can be done with. (The Code requires us to examine) whether the property can or cannot be used in accordance with existing zoning and this owner has agreed that something could be done here under existing zoning, so I don't see why we have to undo the deal. I would rather see the Sorrento Ranches organization and this property owner work out something, maybe something new and come back to us, because the deal's already been made."

Prepared by Daniel J. Lobeck, Attorney for Sorrento Ranches Homeowners Association, Inc., from the City's audio recording of the proceedings.

**The Venice City Council May Not Consider Speculation
That the Property May Be Used as “Affordable” Apartments**

In the absence of a stipulation in the rezoning that the S&J property, given an increase from 8 to 13 units per acre and an increase in building height from 35 feet to 45 or more feet, will be developed as “affordable” rental or condominium apartments, the Venice City Council may not consider that prospect in determining whether to remove zoning stipulations for those increases.

A landowner seeking to rezone property has the burden of proving that the proposal is consistent with the comprehensive plan and complies with all procedural requirements of the zoning ordinance. Board of County Commissioners of Brevard County v. Snyder, 627 So.2d 469 (Fla. 1993). This burden is met only by a showing of competent substantial evidence presented to the board. Id. The Florida Supreme Court in Verizon Florida, Inc. v. Jaber, 889 So. 2d 712, 714 (Fla. 2004) defined competent substantial evidence as follows:

“Substantial evidence has been described as such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred. We have stated it to be such relevant evidence as a reasonable mind would accept as adequate to support a conclusion. In employing the adjective “competent” to modify the word “substantial,” we are aware of the familiar rule that in administrative proceedings the formalities in the introduction of testimony common to the courts of justice are not strictly employed. We are of the view, however, that the evidence relied upon to sustain the ultimate finding should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached. To this extent the “substantial” evidence should also be ‘competent.’”

In order for evidence to be substantial, it must possess something of substantial and relevant consequence and must **not** consist of vague, uncertain, or irrelevant matter not carrying the quality of proof or having fitness to induce conviction. Surmise, conjecture or speculation

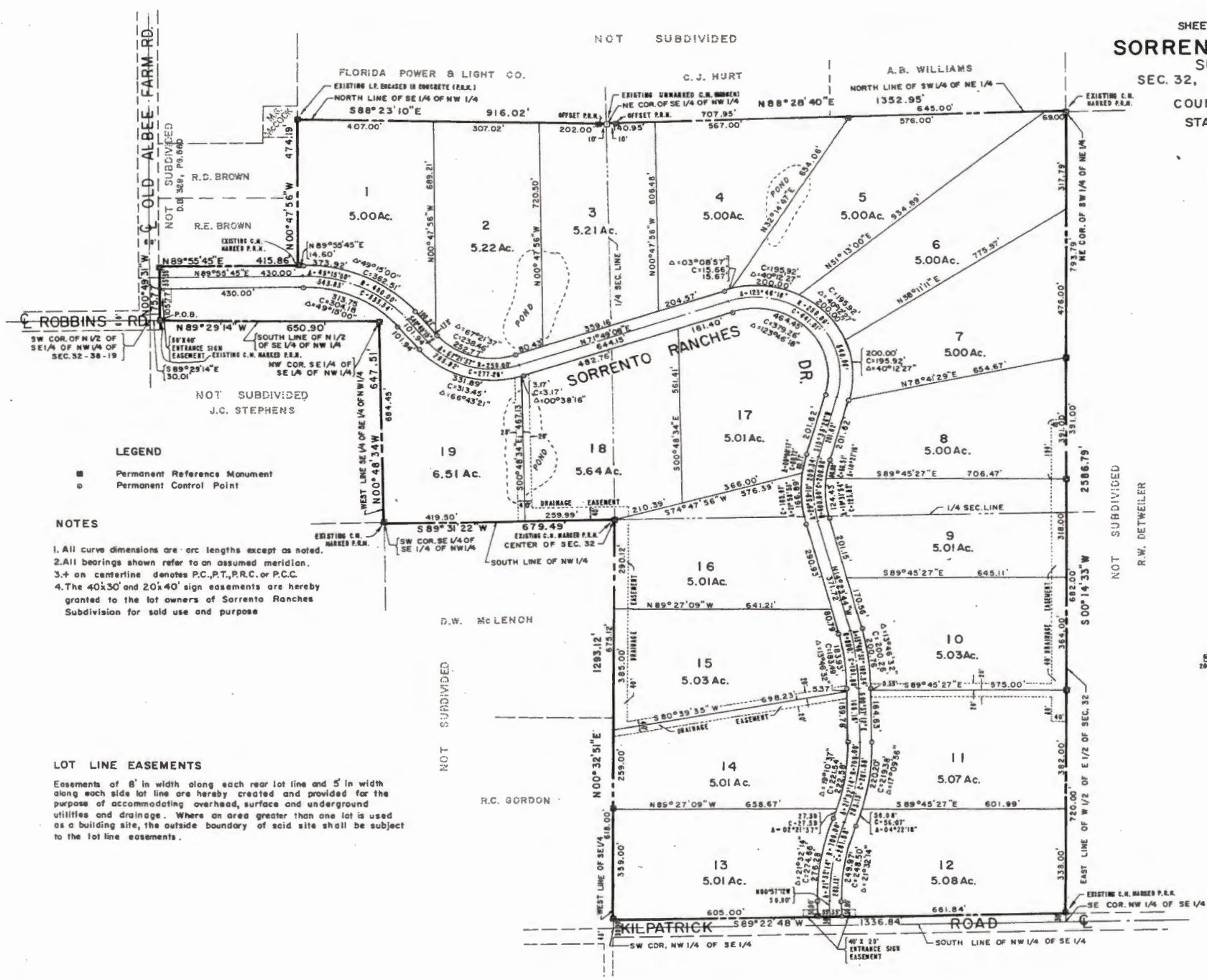
have been held not to be substantial evidence. Florida Rate Conference v. Florida R. R. & Pub. Utilities Comm'n, 108 So. 2d 601, 607 (Fla. 1959).

If the applicant fails to present competent substantial evidence in support of an application for rezone, the board has no basis to approve such an application and the application should therefore be denied. Petitioner seeks approval of its application for rezone based on unsubstantiated testimony that the future land use supports its position and is essentially desirable. However, the intended ultimate land use is not a real, non-speculative and non-hypothetical fact. There must be a fact to support the application, not mere conjecture. Simply put, the intended ultimate land is a guess as to what could happen in the future, and is not a fact that the commission can rely upon. The burden is upon the applicant, who must demonstrate something more than that a rezoning is subjectively desirable. Lee County v. Sunbelt Equities, II, Ltd. P'ship, 619 So. 2d 996, 1007 (Fla. 2d DCA 1993)

Florida courts have long recognized that findings must be based on something more than mere probabilities, guesses, whims, or caprices, but rather on evidence in the record that supports a reasonable foundation for the conclusion reached. Dep't of Highway Safety & Motor Vehicles v. Trimble, 821 So. 2d 1084, 1087 (Fla. 1st DCA 2002). Moreover, argument of counsel to support a petition for a grant of variance is not sufficient evidence for consideration. See, Nat'l Advert. Co. v. Broward County, 491 So. 2d 1262 (Fla. 4th DCA 1986)(Argument of advertiser's counsel to support grant of variance for construction of billboard which exceeded 35 feet in height in violation both terms of billboard permit and county code did not without more constitute sufficient evidence to support grant of variance.)

SHEET 2 OF 2 SHEETS
SORRENTO RANCHES
SUBDIVISION
SEC. 32, TWP. 38 S., RGE. 19 E.
COUNTY OF SARASOTA
STATE OF FLORIDA

NOT SUBDIVIDED



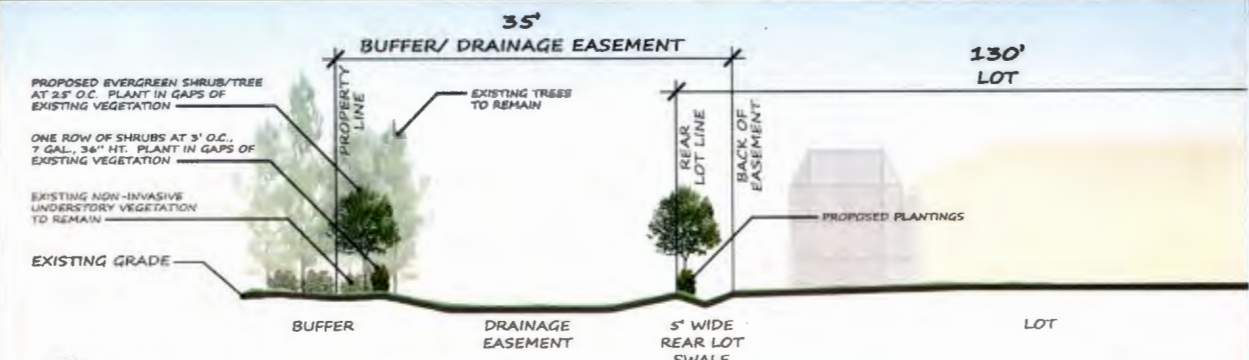
- LEGEND**
- Permanent Reference Monument
 - Permanent Control Point

- NOTES**
1. All curve dimensions are arc lengths except as noted.
 2. All bearings shown refer to an assumed meridian.
 3. + on centerline denotes P.C., P.T., P.R.C. or P.C.C.
 4. The 40'x30' and 20'x40' sign easements are hereby granted to the lot owners of Sorrento Ranches Subdivision for said use and purpose.

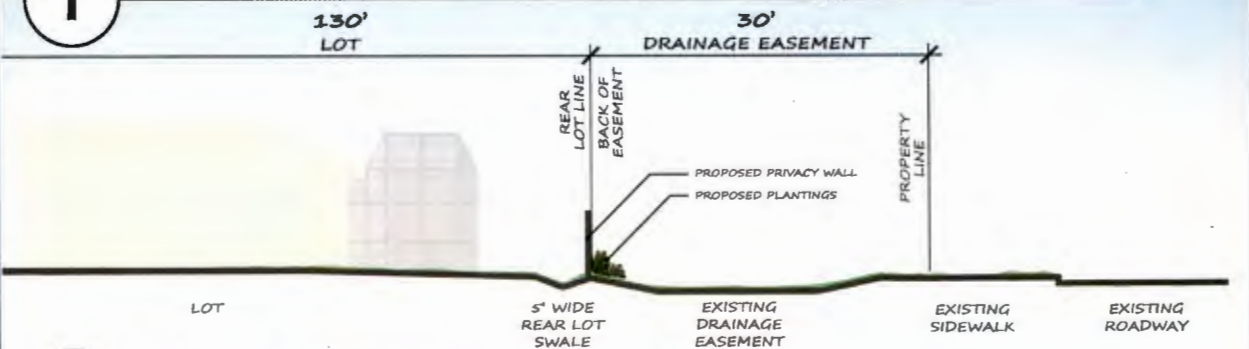
LOT LINE EASEMENTS

Easements of 8' in width along each rear lot line and 5' in width along each side lot line are hereby created and provided for the purpose of accommodating overhead, surface and underground utilities and drainage. Where an area greater than one lot is used as a building site, the outside boundary of said site shall be subject to the lot line easements.

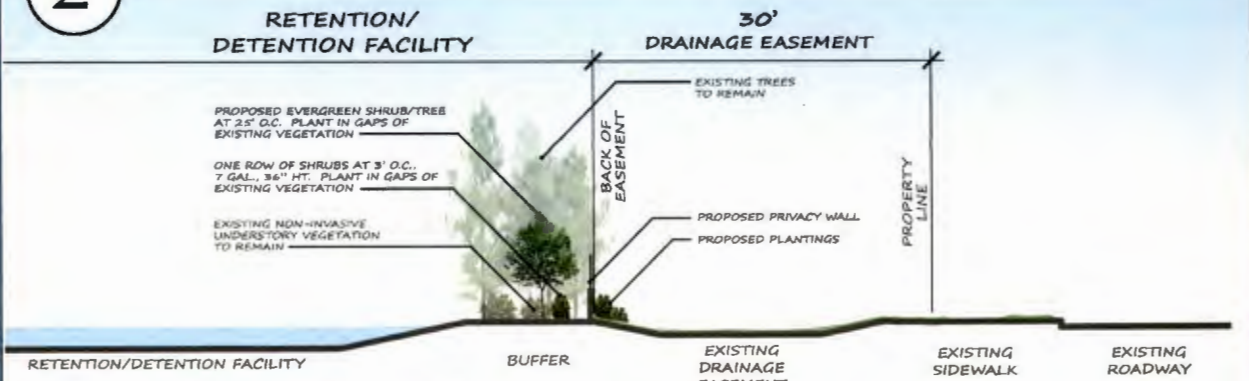




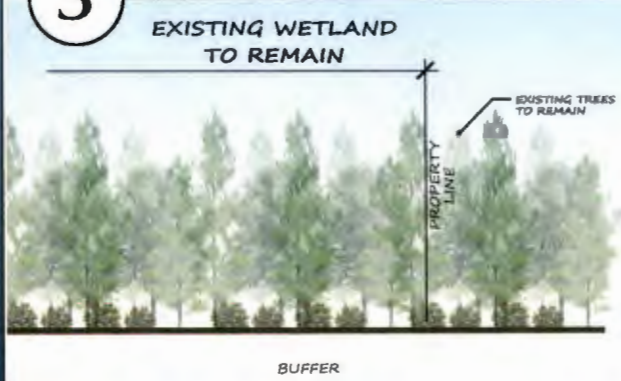
1 Adjacent to Sorrento Ranches



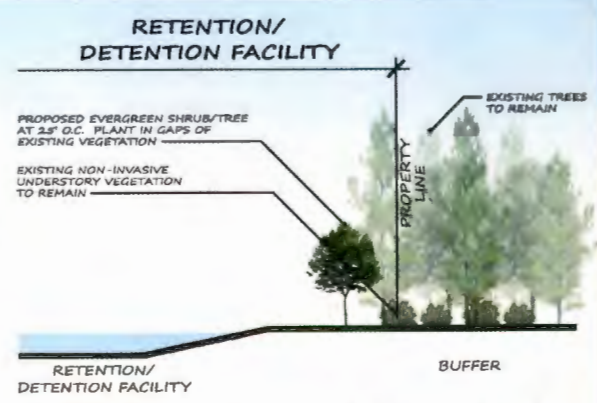
2 Full Wall adjacent to Pinebrook Road



3 Half Wall adjacent to Pinebrook Road



4 Existing Vegetation at Wetland Areas



5 Open Space at Retention/Detention Areas

Robert S. Burrus, Jr., Ph.D.

From: Beth Dilley <Beth@ascendiarealestate.com>
Sent: Tuesday, October 4, 2016 9:13 PM
To: Robert S. Burrus, Jr., Ph.D.
Cc: Barri B. Burrus, Ph.D.; Amanda Wansiewicz
Subject: RE: Please Take our Home off the Market

We will take it off the market in the morning and remove the sign and place it in the garage.

Beth E. Dilley, Broker/Owner
5127 Ocean Blvd Sarasota, FL 34242
941-400-1322 Direct
941-306-4242 Office
941-870-7877 Fax
Beth@AscendiaRealEstate.com



From: Robert S. Burrus, Jr., Ph.D. [mailto:bob@inova-research.com]
Sent: Tuesday, October 04, 2016 5:41 PM
To: Beth Dilley <Beth@ascendiarealestate.com>
Cc: Barri B. Burrus, Ph.D. <barri@inova-research.com>
Subject: Please Take our Home off the Market

Hi Beth!

As we discussed, this is to confirm our decision to take our home off the market.

We are pleased that you concur in light of the uncertainties associated with the S&J rezone and the changes in activity you have observed that you do not understand and do not correlate with what you see happening in the market around us.

Once the outcome of the S&J rezone has been determined, we will reassess the circumstances at that time.

Please let us know when our home is off the market.

Many thanks,

-Bob