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September 22, 2017

Via Email

Lori Stelzer, City Clerk  
City of Venice  
401 West Venice Avenue  
Venice, Florida 34285

Re: VG&RC Community Association, Inc.'s Request for Third-Party Status; McLeod Recycling Yard – 700 Gene Green Road Site & Development Plan Application (Application No. 17-03SP)

Dear Ms. Stelzer,

This firm represents VG&RC Community Association, Inc. ("Venetian"), the representative association for approximately 1,350 homeowners in the Venetian Golf and River Club community located north of Laurel Road, south of Gene Green Road, and between Knights Trail and Myakka River State Park.

The Venetian community is located south of the McLeod Recycling Yard proposed by 700 Gene Green Road, LLC ("McLeod"), as reflected in its Site & Development Plan Application No. 17-03SP ("Application"), and Venetian is a registered neighborhood association receiving notice under Section 86-49(h)(4), *City of Venice Zoning Code*. Venetian has standing to participate as a party and is requesting affected third party status to participate in the Planning Commission proceeding relating to the McLeod Application.

Florida case law has for decades very clearly established under what circumstances a landowner has standing in quasi-judicial zoning proceedings such as the McLeod Recycling Yard Application. The Florida Supreme Court's opinion in *Renard v. Dade County*, 261 So. 2d 832 (Fla. 1972), continues to be the principal case on this topic. *Renard* establishes the "special damages" rule, which is derived from the law of public nuisance. *Id.* at 833. The rule is based on the principle that a private landowner may not seek to abate a municipal zoning violation existing on others' lands, unless such private landowner has suffered special damages different in kind and degree from the rest of the community. *Id.* *Renard* expanded this standard to be applied when determin-



ing if a private landowner has standing as an adversely-affected party for the purpose of participating in a quasi-judicial zoning proceeding. *Id.*

In determining whether Venetian's interest is sufficient to give standing as a party, the Planning Commission is to consider such factors as: (1) the proximity of Venetian's property from the subject property receiving the zoning approval; (2) the character of the surrounding neighborhood, including the existence of common restrictive covenants and setback requirements; (3) in the case of a rezoning, what type of zoning change is proposed, and; (4) whether the petitioner seeking standing is among those entitled to receive notice under the municipality's zoning code. *Id.*

Rather than examining each of the factors under the rule as they relate to Venetian, we point out that Venetian is a registered neighborhood association receiving notice under Section 86-49(h)(4), *City of Venice Zoning Code*, and McLeod was required to provide notice to Venetian, thereby meeting factor (4) under *Renard*.

We have reviewed the Application and find it to be inconsistent with the City's zoning code and the applicable pre-annexation agreements. Yesterday, after confirming the date of the continued Planning Commission hearing and having just received the staff report, we reached out to McLeod's counsel (copied on this letter) to discuss the prospect of their making reasonable minor modifications to their Site and Development Plan and a possible continuance to resolve those matters before appearing before Planning Commission. We have not yet heard back from McLeod as of the date of this letter. Additionally, Mr. Jerry Jasper is the client representative for Venetian and, due to the continuance of this hearing to Monday, has a conflicting CDD board meeting he must attend and will be unable to be present at the Planning Commission hearing.

Regardless of Mr. Jasper's unavailability and our attempt to work with McLeod regarding a possible continuance, we will be appearing at the September 25, 2017, Planning Commission hearing.

Thank you for your kind attention to this matter.

Best regards,



Erin Hope Christy

For the Firm

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