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April 25, 2018

VIA HAND DELIVERY

Mr. Jeff Shrum, AICP
Community Development Director
City of Venice
401 West Venice Ave
Venice, Florida 34285

Re: Pinebrook Park, LLC

Dear Mr. Shrum:

As you are aware, we represent Pinebrook Park, LLC, owner of an approximate 2.5 acre parcel on Pinebrook Boulevard in the City of Venice. As you are also aware, our client's property was the subject of an April 3, 2018, public hearing before the Planning Commission.

During the public hearing, the Pinebrook South Home Owners Association ("HOA") cross examined and asked questions of City Planning Department representative Scott Pickett. The HOA also made a presentation later in the public hearing. During the HOA's cross examination of Mr. Pickett, certain paragraphs from City Resolutions approved in the 1970's and 1980's were focused upon. The HOA also made reference to those same paragraphs during its presentation.

The Resolutions referenced above were contained in the agenda material, along with the City Staff Report, for the public hearing. Specifically, the Resolutions at issue are Nos. 518-74, 794-83 and 863-85. We have attached copies of those Resolutions (obtained from the agenda materials) to this letter for review.

Following the public hearing, and after considering Pinebrook South HOA's above-described cross-examination and presentation, we reviewed again the paragraphs of the three Resolutions that were the focus of the public hearing. It is as the result of that review that we write this letter to you.

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To better understand this matter, we have set forth below the paragraphs at issue:

From Resolution 518-74 (1974):

“... all the terms and conditions of this Resolution, as consented to by the developer and the mortgagee, shall be incorporated by reference in the Ordinance rezoning the subject property to PUD District No. 2.

(1) The gross residential density of the subject property shall be limited to 3.25 residential units per acre for a maximum of 790 residential units.

(2) That six (6) acres of the subject property may be devoted to use by any establishment selling goods and services at retail including professional offices and clinics except the practice of veterinary medicine. No portion of the six (6) acres may be devoted to residential use.”

From Resolution 794-83 (1983):

“NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, that Section (2) of Page 3, Resolution No. 518-74, is hereby amended in its entirety to read as follows:

(2) That a nursing home shall be a permitted use on those certain six acres, more or less, described as Tract D, Pinebrook South, according to the Plat thereof filed and recorded in Plat Book 23, Page 25, Public Records of Sarasota County, Florida.”

From Resolution 863-85 (1985):

“NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, that Section (2) of Page 3, Resolution No. 518-74, is hereby amended in its entirety to read as follows:

(2) That nursing homes and homes for the aged shall be permitted uses on those certain six acres, more or less, described as Tract D, Pinebrook South, according to the Plat thereof filed and recorded in Plat Book 23, Page 25, Public Records of Sarasota County, Florida.”

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At the public hearing, it was the position of the Pinebrook South HOA that residential uses were not allowed on our client's property, based upon the Resolutions cited above. However, a closer reading of the pertinent language of the three Resolutions (as set forth above) clearly shows that the prohibition of residential uses contained in Resolution 518-74 (1974) was removed by Resolution 794-83 (1983), and not in any way restricted by Resolution 863-85 (1985).

The key language contained in the 1983 Resolution, that Section (2) of the 1974 Resolution was amended "*in its entirety*" (emphasis supplied), had the effect of removing the prohibition of residential uses from the 6 acre parcel. Similarly, the 1985 Resolution also amended Section (2) in its entirety.

It is uncontroverted that PUD zoning is a residential zoning district where residential uses are allowed anywhere within a PUD-zoned property, unless restricted by the PUD regulations for that property. For the Pinebrook PUD, there are no restrictions on residential use. In addition to the foregoing, Resolution 518-74 (1974) clearly allows a maximum of 790 residential units (on a gross density basis) for all of the Pinebrook PUD property.

Taking all the above into consideration, and as a result of the focus placed upon language of the three Resolutions at the public hearing, it is now clear to us that residential use is presently allowed on our client's property, and, therefore, there is no need to proceed with the rezoning of the property to add residential as an allowed use.

We recognize that a site and development plan will still need to be approved for our client's property before any development can take place. That process will allow for any reasonable concerns of any resident who believes they will be impacted by the development to be considered and addressed.

Once you have had the opportunity to review and consider the above, we would respectfully request that you confirm in writing that residential use is allowed on our client's property. Once we have that confirmation, our client intends to proceed with preparation and filing of a site and development plan application for the property.

If you have any questions or need any additional information, please do not hesitate to contact us.

Kind regards.

Very truly yours,


Jeffery A. Boone

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Enclosure

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Copies to:

Pinebrook Park, LLC (w/encl.)
Kelly Fernandez, Esq., Assistant City Attorney (w/encl.)
Dan Lobeck, Esq. (w/encl.)

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