



# City of Venice

401 West Venice Avenue  
Venice, FL 34285  
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## Meeting Minutes City Council

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Tuesday, May 8, 2018

9:00 AM

Council Chambers

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[ORD. NO.](#)  
[2018-13](#)

An Ordinance of the City of Venice, Florida, Granting Rezoning Petition No. 16-04RZ Amending the Pinebrook South Planned Unit Development (PUD) and Resolution 518-74, as Amended, to Add Residential as a Permitted use up to 18 Dwelling Units Per Acre on Property Located at 1220 Pinebrook Road, Owned by Pinebrook Park, LLC; Providing that all Future Amendments to Resolution 518-74 Shall be Adopted by Ordinance; Providing for Repeal of all Ordinances in Conflict Herewith; Providing for Severability; and Providing for an Effective Date (Quasi-Judicial)

Mayor Holic announced this is a quasi-judicial procedure and opened the public hearing.

Ms. Stelzer read the ordinance by title only.

Ms. Fernandez questioned council on conflicts of interest and ex-parte communications. Ms. Fiedler noted having a discussion with Barry Snyder on attending two planning commission hearings, Mayor Holic noted site visit with no communication, and Mr. Newsom noted site visit, communication with residents, and attending hearing at the planning commission meeting. Mr. Newsom confirmed he can remain fair and impartial and base his decision solely on the evidence presented today.

Jeffery Boone, representing applicant, being duly sworn, commented on Mr. Fraize's attendance at the second reading, and questioned Ms. Fiedler and Mr. Newsom regarding a campaign forum and voting decision. Mr. Boone had no objections.

Mayor Holic noted attending the campaign forum.

Ms. Fernandez explained the process to determine affected party status.

Lowell Beatty, 1328 Lucaya Avenue, being duly sworn, requested affected party status and confirmed proximity of his property to boundary of affected lot.

Mr. Boone presented a map of Pinebrook South and asked Mr. Beatty to mark the location of his residence on the map.

Ms. Fernandez noted standard for council granting affected party status.

Mr. Beatty responded to council questions regarding having an interest that exceeds that of the general public.

Mr. Boone objected to Dan Lobeck, representing Pinebrook South Homeowner's Association (HOA), assisting Mr. Beatty with questions.

Mayor Holic stated objection is noted.

Mr. Beatty responded to council questions regarding his residence's proximity to proposed project and whether he will be affected.

**A motion was made by Council Member Gates, seconded by Vice Mayor Daniels, to approve affected party status for Mr. Beatty.**

Mr. Boone stated no objection.

**The motion carried by voice vote unanimously.**

Roger Lawson, 1350 Lucaya Avenue, being duly sworn, requested affected party status and confirmed his residence abuts the subject property.

Per Mr. Boone's request, Mr. Lawson marked his property on the map.

Ms. Fernandez noted the same standard applies in determining affected party status for Mr. Lawson.

Mr. Lawson responded to council questions regarding how his property would be affected by the proposal.

**A motion was made by Council Member Fiedler, seconded by Vice Mayor Daniels, to approve affected party status for Mr. Lawson.**

Mr. Boone stated no objection.

**The motion carried unanimously by voice vote.**

Mr. Boone stated no objection to approving affected party status for Elaine Lawson.

Elaine Lawson, 1350 Lucaya Avenue, being duly sworn, requested affected party status and commented on proposed development impacting property values.

**A motion was made by Council Member Gates, seconded by Council Member Fiedler, to approve affected party status for Ms. Lawson. The motion carried**

unanimously by voice vote.

Mr. Boone stated no objection to granting affected party status for the Pinebrook South HOA.

Mr. Lobeck, being duly sworn, spoke to requesting affected party status for the Pinebrook South HOA.

**A motion was made by Council member Fiedler, seconded by Vice Mayor Daniels, to approve affected party status for Pinebrook South HOA. The motion carried by voice vote unanimously.**

Ms. Stelzer noted all written communication received was included in the agenda packet.

Mr. Pickett, being duly sworn, provided a presentation and spoke on petition summary, property history, Pinebrook South planned unit development (PUD) 2018 aerial, future land use map (FLUM), existing zoning map, comprehensive plan consistency, compliance with the Pinebrook South PUD and land development code (LDC), consistency with Code Section 86-47(f)(1): Findings for rezoning amendments, concurrency, summary findings, planning commission report and recommendation to council, and responded to council questions regarding property approval for a home for the aged, lot area and setbacks, PUD maximum residential density for mixed use residential (MUR), development standards, and comprehensive plan policy Strategy LU 1.2.8 compatibility between land uses.

Mr. Shrum, being duly sworn, commented on the comprehensive plan compatibility matrix and noted strategies do not apply to current rezone application.

Discussion followed regarding the compatibility matrix being applied to future land use amendments, planning commission's decision and recommendation, Comprehensive Plan Policy 8.12, property development, project application, considering number of units per acre, determining density, mitigation techniques, and recommendations from surrounding property owners.

Mr. Boone noted he had two areas of questions and requested to address questions separately.

Mr. Lobeck responded to Mr. Boone's request.

Mr. Boone cross-examined Mr. Shrum regarding density within MUR, proposed and maximum residential dwellings within a PUD, mixture of

densities to include single and multi-family developments within a PUD, Pinebrook South PUD zoning designation, attendance at the planning commission hearing and comments made regarding a contract, and whether the original resolution contained provisions stating it could be amended or changed.

Mr. Boone withdrew his question regarding provisions in the original resolution.

Mr. Boone cross-examined Mr. Shrum regarding resolution changes, meeting with staff on the application, site and development plan requirements, and language in Resolution 518-74 regarding gross residential density and reason for restriction of residential use.

Mr. Lobeck objected and noted Mr. Boone's attempting to get into the zoning determination and introduce subjects outside of scope.

Mayor Holic stated objection is noted.

Mr. Boone noted the resolution was part of the staff report, included in the record, and not beyond the scope of direct.

Mr. Lobeck provided reasons for his objection.

Ms. Fernandez provided clarification on Mr. Lobeck's concern.

Mr. Boone noted his questions are directly related to staff's testimony and presentation, and questions asked by council.

Ms. Fernandez commented on the normal scope of a rezoning proceeding.

Mr. Boone requested the audience refrain from making audible noises.

Mayor Holic requested audience members refrain from making audible remarks and distracting gestures.

Mr. Boone continued to cross-examine Mr. Shrum on prohibition of residential use on the subject property.

Mr. Lobeck objected and noted Mr. Boone is trying to get a zoning determination that residential is allowed on the subject property, and is beyond scope of direct.

Mayor Holic stated objection is noted.

Ms. Fernandez clarified part of an applicant's case is making factual and legal arguments.

Discussion followed regarding documents in the record, PUD, property history, and staff determination.

Mr. Boone spoke to objections made beyond the scope of direct, staff report, and record entries.

Mr. Lobeck objected to evidence placed into the record during the course of direct testimony.

Mr. Boone cross-examined Mr. Shrum regarding correspondence that was mentioned in the staff report and included in the record.

Mayor Holic stated Mr. Lobeck's objection is noted.

Mr. Boone continued to cross-examine Mr. Shrum regarding provisions in Resolution 518-74 and Resolution 794-83 to include prohibition of residential use on the subject property.

Mr. Lobeck objected and noted Mr. Boone is trying to get a zoning determination as to the allowable residential density and is beyond the scope of direct.

Mayor Holic stated Mr. Lobeck's objection is noted.

Ms. Fernandez clarified the process on counsel objections.

Mr. Boone cross-examined Mr. Shrum regarding language in Resolution 863-85 to include permitted use for home for the aged and nursing home, amendment to Resolution 518-74, restriction of residential use, Mr. Lobeck's email dated May 3, 2018, and Mr. Shrum's response email to Mr. Lobeck.

Mr. Lobeck objected to grounds for relevance.

Mayor Holic stated objection is noted.

Mr. Boone spoke to Mr. Lobeck's objection.

Mr. Boone continued to cross-examine Mr. Shrum regarding Mr. Lobeck's response email dated May 2, 2018 and commented on Mr. Lobeck's time conducting legal research.

Mr. Lobeck objected to Mr. Boone's comment on the time Mr. Lobeck took to write the email.

Mayor Holic stated objection is noted.

Recess was taken from 12:31 p.m. until 1:45 p.m.

Mr. Boone cross-examined Mr. Shrum regarding Mr. Lobeck's email dated May 3, 2018 referencing Mr. Shrum's conclusion.

Mr. Lobeck noted a standing objection to line of questioning.

Mayor Holic stated objection is noted.

Mr. Boone requested the record reflect he did not ask Mr. Shrum for a zoning determination.

Mr. Lobeck cross-examined Mr. Shrum regarding gross density, project, language in Strategy LU 1.2.16 MUR and Chapter 86 LDC, compatibility, density determination, proposed site plan for 18 units per acre, Mr. Boone indicating at the planning commission hearing he may request a setback variance on the site plan if the rezone was approved, proposed building height, and FLUM density matrix.

Mr. Boone objected to Mr. Lobeck's question on the density matrix.

Mayor Holic stated objection is noted.

Mr. Lobeck cross-examined Mr. Shrum regarding compatibility determination on residential designations, Pinebrook South PUD densities, FLUM compatibility, PUD agreement being characterized as a contract, and amendments to the Pinebrook South PUD.

Mr. Boone had standing objection to Mr. Lobeck's questions.

Mayor Holic announced objection is noted.

Mr. Lobeck cross-examined Mr. Shrum regarding amendments to the Pinebrook South PUD and whether there were any objections from residents, concerns from the planning commission on compatibility and consistency with the comprehensive plan, PUD allowing 18 units per acre, multi-family development, lake buffer, and compatibility.

Mr. Beatty and Mr. and Ms. Lawson had no questions for Mr. Shrum.

Mr. Boone cross-examined Mr. Shrum regarding Mr. Boone seeking a variance for this project.

Mr. Lobeck objected to Mr. Boone's question about his testimony at the planning commission hearing.

Mayor Holic stated objection is noted.

Mr. Boone cross-examined Mr. Shrum regarding Mr. Boone's testimony at the planning commission hearing, low density at Pinebrook South, MUR, PUD resolution and amendments, allowing multi-family in the PUD, density of a multi-family dwelling, lake buffer, zoning change, stormwater ponds, and compatibility.

Mr. Lobeck cross-examined Mr. Shrum regarding transition and multi-family development in the PUD.

Mr. Boone cross-examined Mr. Shrum on whether he made a determination if residential is permitted on the site.

Mr. Boone noted he is not seeking to rezone the property, and spoke to adding residential zoning, request for 18 units per acre, planning commission meeting, affected parties, applicant's presentation, market rate apartments, Pinebrook South PUD density, comprehensive plan, mixed use, MUR designation, single and multi-family developments, apartments, Pinebrook Road, neighborhood concerns, compatibility, definition of "amend" and "entirety", consistency with the comprehensive plan and zoning code, client's proposal, site and development process, emergency access, parking, complying with landscaping and buffer requirements, and requested council's approval.

Discussion followed on the 1974 planning commission letter to city council, August 20, 1974 meeting minutes, Pinebrook development, and master plan.

Mr. Boone responded to council questions regarding HOA groups that have apartments in the PUD, compatibility between rental and ownership, and the definition of "amend".

Recess was taken from 3:20 p.m. until 3:30 p.m.

Mr. Beatty commented on the planning commission's decision and requested council to follow their recommendation.

Mr. Lawson spoke regarding the subject property zoning, proposed

parking lot behind his home, incompatibility, comprehensive plan meetings, Bay Indies, placing high density rental housing adjacent to a nursing home, controlled growth, Pinebrook Road, compromise, alternative to 18 units per acre, and provided some of John Nolen's quotes.

Mr. Lawson responded to council questions regarding the length of time living at his residence, interpretation of what would be built behind his home, and lot width.

Mr. Pickett responded to council questions regarding setbacks from the nursing home and vacant lot.

Mr. Boone cross-examined Mr. Lawson regarding notification of the neighborhood meeting and applicant's disclosure, nursing home property, and certificate of need.

Mr. Lobeck objected and noted beyond the scope of direct.

Ms. Fernandez provided clarification on affected parties objecting to other affected parties questioning.

Mayor Holic stated objection is on the record.

Mr. Lobeck commented on Mr. Boone's cross-examination of Mr. Lawson.

Mayor Holic stated objection is noted.

Mr. Boone cross-examined Mr. Lawson regarding nursing homes and certificate of need, designing of nursing homes, home for the aged, or multi-family developments, additional traffic on site, nursing home purchasing subject property, John Nolen's plan, condominiums on Pinebrook Road abutting single-family homes, compromise, proposal for low income housing, nursing home letter to Mr. Fraize dated May 27, 2016, contact with the nursing home, and low income housing.

Mr. Lobeck objected to Mr. Boone's testimony and question on low income housing.

Mr. Boone withdrew the question.

Mr. Boone cross-examined Mr. Lawson regarding the condominiums on Pinebrook Road within the Pinebrook South PUD, issue with proposed project, and housing for the aged development approval.

Mr. Lobeck objected to Mr. Boone testifying.



Mayor Holic stated objection is noted.

Mr. Boone cross-examined Mr. Lawson regarding home for the aged, proposed project, and how many multi-family units would be acceptable.

Mr. Lobeck suggested Mr. Lawson include his documents in the record and Mr. Boone had no objections.

Ms. Lawson declined to make a presentation.

Mr. Lobeck spoke to the Pinebrook South PUD, permitted uses, master plan, neighborhood compatibility, determining density, planning commission's decision, comprehensive plan, MUR, Policy 8.2, maximum density of dwelling units per gross acres, PUD changes and regulation, school capacity, neighborhood meeting, compromise, PUD amendments being in conjunction with the site plan, neighborhood engagement and agreeing to a resolution, non-residential uses on the property, traffic, nursing home, apartment proposal, setback reductions, landscaping regulations, property rights, and requested council to deny proposal.

Discussion followed on the meeting format.

Recess was taken from 5:07 p.m. until 5:20 p.m.

Mayor Holic commented on the meeting format.

**There was council consensus to recess after the completion of audience participation and Mr. Lobeck's cross examination until 8:00 a.m. tomorrow morning.**

Fran Nelson, 1245 Waterside Lane, being duly sworn, noted opposition to proposed rezone, and spoke regarding traffic, HOA and use of amenities, and preserving property as currently zoned.

Per Mr. Boone's request, Ms. Nelson marked her property on the map, and responded to Mr. Boone's question regarding number of acceptable units on the subject property.

Holly Laird, 1312 Whispering Lane, President of the Board of Directors Pinebrook South HOA, being duly sworn, spoke to concerns with the proposed development and requested council deny the petition.

Per Mr. Boone's request, Ms. Laird marked her property on the map, and responded to Mr. Boone's questions regarding residential development on the subject property.

Ms. Laird responded to council questions regarding length of time living at Pinebrook South.

Jim Lansing, 809 Connemara Circle, on behalf of the Central Venice Coalition, being duly sworn, spoke to use of Pinebrook Road sidewalk and traffic on Pinebrook Road.

David Greenberg, 612 Oak Hill Circle, Sarasota, representing petitioners, being duly sworn, spoke to his work experience and involvement with the subject property, previous property plans, and certificate of need.

Mr. Lobeck cross-examined Mr. Greenberg regarding the nursing home, assisted living facilities (ALFs), combining the nursing home with an ALF, senior housing certification, financial gain in the project, and Mr. Boone's commitment of market rate apartments.

Mr. Boone objected and noted facts are not in the evidence.

Mayor Holic stated objection is noted.

Mr. Lobeck cross-examined Mr. Greenberg regarding selling, development, and use of the property.

Mr. Boone commented on working with an ALF developer who wants to build an ALF in the city.

Mr. Lobeck objected and noted testimony is hearsay and not cross-examination.

Mayor Holic stated objection is noted.

Mr. Boone cross-examined Mr. Greenberg regarding ALF designs.

Dick Longo, 295 Marsh Creek Road, representing the Central Venice Coalition and long term care ombudsman, being duly sworn, spoke regarding proposal, comprehensive plan, project location, nursing homes, and market demand.

Mr. Boone cross-examined Mr. Longo regarding certificate of need requirement for new or expanded ALFs or nursing homes, and whether there is a need for new nursing home beds in Sarasota County.

James Economides, 1322 Whispering Lane, Pinebrook South HOA Vice President, being duly sworn, spoke to the association's position on the

proposed development and believes council should deny the petition.

Mr. Economides responded to council questions on the definition of "infill".

Mr. Pickett read the definition of "infill" from the comprehensive plan.

Mr. Economides responded to council questions regarding length of time at residence and use of the subject parcel.

Per Mr. Boone's request, Mr. Economides marked his residence on the map, and responded to Mr. Boone's questions regarding the subject parcel's zoning and use, and previous proposal for an apartment development.

Kathleen Economides, 1322 Whispering Lane, being duly sworn, believes proposal is out of character for the Pinebrook South PUD, presented a picture showing traffic in front of the nursing home, and commented on site and development plan, PUD MUR zoning, concerns with proposal, and requested council to deny the petition.

Mr. Boone cross-examined Ms. Economides regarding the HOA committee, number of acceptable units on the subject property, development of condominiums, 50% open space requirement, and appropriate location for apartment developments.

Dean Calamaras, 13 Gulf Manor Drive, being duly sworn, spoke to the PUD and commercial use property designation.

Mr. Boone cross-examined Mr. Calamaras regarding his history and involvement with the city, and resolution changes.

Linda Strange, 1247 Lucaya Avenue, being duly sworn, spoke to non-residential space, institutional uses, resolution language, keeping the current zoning, and buffer.

Per Mr. Boone's request, Ms. Strange marked her residence on the map and responded to Mr. Boone's questions regarding HOA board membership and resolution.

Mr. Boone spoke to Mr. Lobeck's testimony and cross-examination.

Mr. Lobeck objected to questions on allowing residential use.

Mayor Holic explained tomorrow's meeting format.

Mr. Boone spoke to rebuttal time and requested one hour.

Discussion followed on rebuttal time for each party.

Ms. Fernandez suggested each party to separate the rebuttal from closing.

Mr. Lobeck objected to Mr. Boone's request for additional rebuttal time.

Discussion continued on rebuttal time for each party.

Mr. Boone objected to 45 minutes rebuttal time.

Mayor Holic stated objection is noted.

**There was council consensus to allow 45 minutes of rebuttal time to the applicant and 30 minutes to affected party, and allow each party five minutes for closing statements.**