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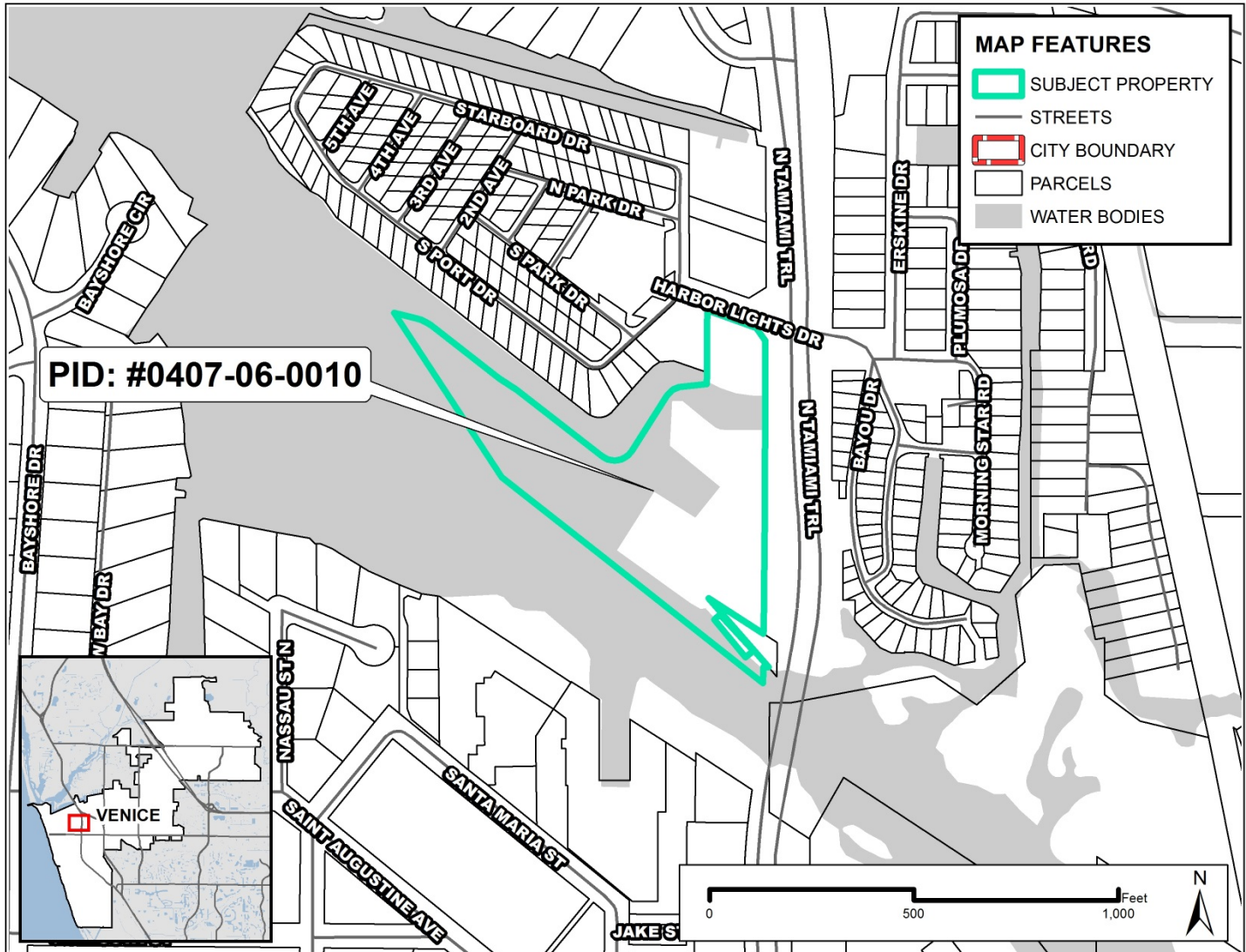
If a member should receive ex-parte communications (written or verbal) on this agenda item, any such contact must be formally reported during the meeting.



CONDITIONAL USE STAFF REPORT FISHERMAN'S WHARF

December 4, 2018

17-02CU



PETITION NO.: 17-02CU

REQUEST: Conditional use petition to allow four multi-family residential buildings to exceed the maximum building height of 35 feet in the proposed Commercial, General (CG) zoning district by 20± feet.

GENERAL DATA

Owner: Venice Marine Park, LLC
Address: 509 N. Tamiami Trail
Property Size: 7.18± acres
Future Land Use: Mixed Use Corridor (MUC)
Neighborhood: Gateway Neighborhood
Existing Zoning: Commercial, Intensive (CI) and Marine Park (MP)
Proposed Zoning: Commercial, General (CG)

Agent: Jeffery Boone, Esq., Boone Law Firm
Property ID: 0407-06-0010

ASSOCIATED DOCUMENTS

A. Application Information (completed petition)

I. BACKGROUND INFORMATION

Based on a review of city records, the following is an outline of the past development activity on the subject property.

- Between 1953 and 1980 the following existing improvements were developed on the subject property without site and development plan approval: two marine sales/service/repair buildings on the north side of the site, a water-front restaurant, the commercial/office/storage building adjacent to the restaurant, the dock master office/marine service building on the south side of the site and the off-street parking and landscaping improvements.
- On November 6, 2013, through the approval of a major structure over water permit, petition number 13-03MI, City Council approved an existing 57 slip marina subject to 44 stipulations.
- On September 2, 2014, through the approval of Site and Development Plan Petition No. 14-03SP, the Planning Commission approved an existing 2,600 square foot tiki hut with a maximum capacity of 72 restaurant seats and a 481 square foot laundromat building adjacent to the dock master office (the laundromat was not constructed prior to the two-year expiration of the site and development plan approval).
- On December 3, 2014, Site and Development Plan Amendment No. 14-03SP.1 was administratively approved to include a 40' x 40' tract previously excluded from Site and Development Plan 14-03SP.
- On January 6, 2015, through the approval of Special Exception Petition No. 14-01SE, the Planning Commission approved 15 live-aboard slips at the marina subject to five stipulations.
- On September 26, 2017, through the approval of Small-Scale Comprehensive Plan Amendment Petition No. 17-02CP, City Council approved a future land use map amendment to change the future land use map designation of the subject property from Northern Gateway Corridor (Planning Area F) and Waterway to a Commercial future land use map designation.
- On January 12, 2018, the 2017 City of Venice Comprehensive Plan became effective and the future land use map designation for the subject property became Mixed Use Corridor (MUC).

II. EXECUTIVE SUMMARY

The subject 7.2± acre property currently has a Commercial, Intensive (CI) zoning designation on the upland portion of the property and a Marine Park (MP) zoning designation on the submerged land portion of the property. The applicant requests a zoning map amendment to rezone the entire subject property to a Commercial, General (CG) district.

Other land development applications associated with the development project are on file with the Planning and Zoning Division include the following:

- Zoning Map Amendment Petition No. 17-11RZ
- Site and Development Plan Amendment Petition No. 14-02SP.2
- Special Exception Petition No. 17-03SE

Generally, the proposed development of the subject property includes four new residential multi-family buildings with 40 dwelling units, expansion of the existing restaurant, removal of all other existing commercial buildings on the property, a new marina use building, and associated off-street parking, landscaping and utility improvements.

The subject petition requests an increase to the maximum building height of 35 feet permitted in the CG zoning district by 20± feet. The proposed height of the multi-family buildings as measured per the City's code will be 56± feet. Building height as measured from grade is approximately 65± feet.

Stipulation: The Conditional Use Petition No. 17-02CU will become effective upon approval of Zoning Map Amendment Petition No. 17-11RZ by City Council.

Based on the submitted application materials, staff data and analysis, and conclusions of this staff report, staff provides the following summary findings on the subject petition:

- **Conclusions / Findings of Fact (Consistency with the Comprehensive Plan):**
The subject petition may be found consistent with the Land Use Element strategies applicable to the Mixed Use Corridor (MUC) future land use designation and Policy 8.2 regarding compatibility. In summary, the subject petition may be found consistent with the Comprehensive Plan.
- **Conclusions / Findings of Fact (Compliance with the Land Development Code):**
Required Planning Commission Findings for Conditional Use Approval: The following may be found regarding the conditional use petition
 - *Will not adversely affect the public interest,*
 - *Any specific requirements governing the individual conditional use, if any, have been met by the petitioner,*
 - *Satisfactory provision and arrangement have been made concerning the matters listed in Section 86-42(e).*

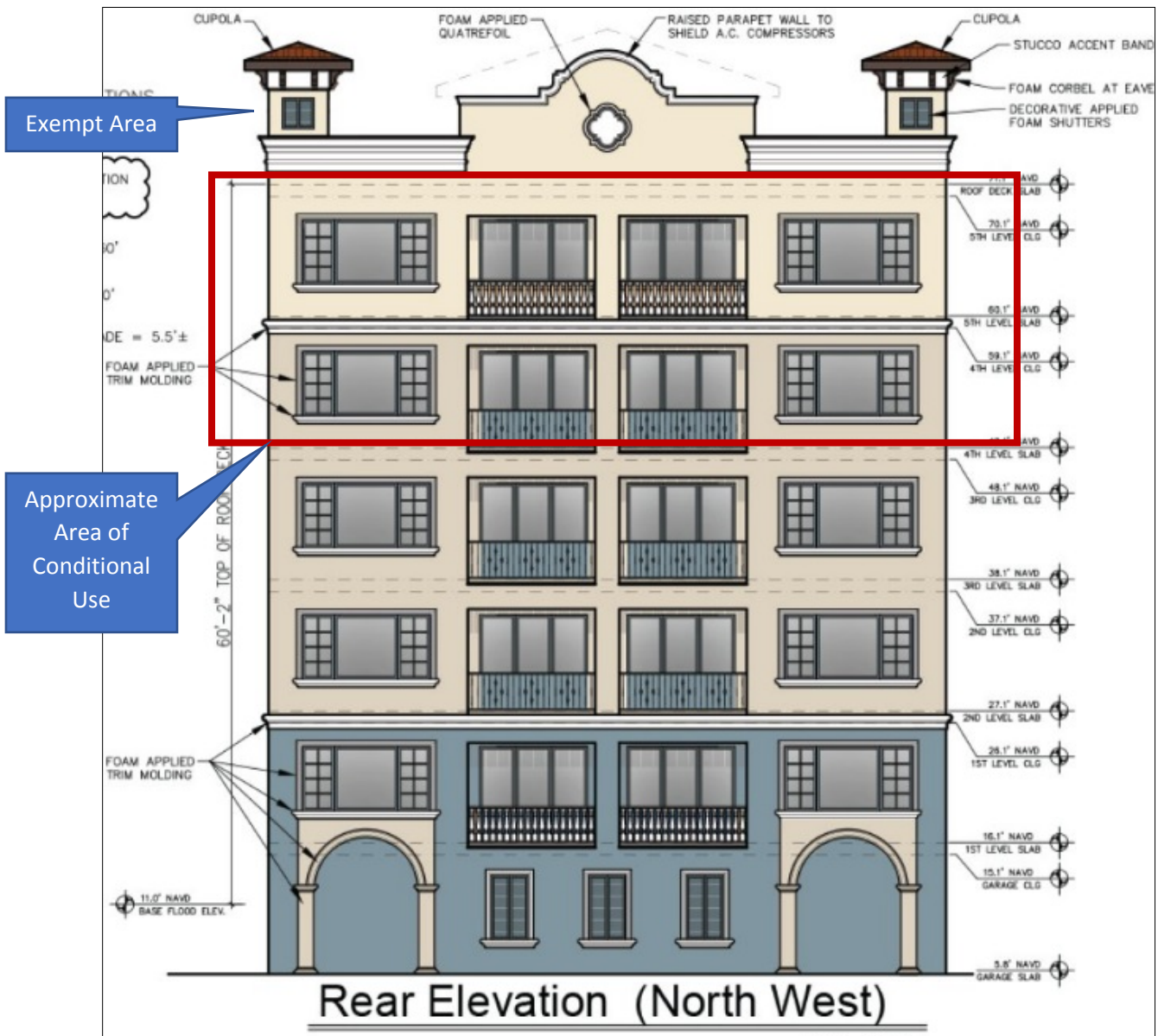
III. PROJECT DESCRIPTION

The applicant's elevation drawing shown on the following page shows the proposed multi-family buildings. Staff has added a graphic to the elevation to approximately indicate the area of the requested conditional use that is applicable across all four buildings and to identify the area above as appurtenances exempt from the height measurement. Due to the request of the petition for additional building height through conditional use, the description below is limited to the residential buildings.

- Residential Development - Four multi-family residential buildings, each with ten dwelling units for a total of 40 dwelling units is proposed. Amenities associated with the proposed residential use includes two, four-car detached garages, a swimming pool, pool cabana and pool restroom.

The applicant is requesting an approximately 20 of building height through the conditional use process. Measurement is as follows (illustrated below):

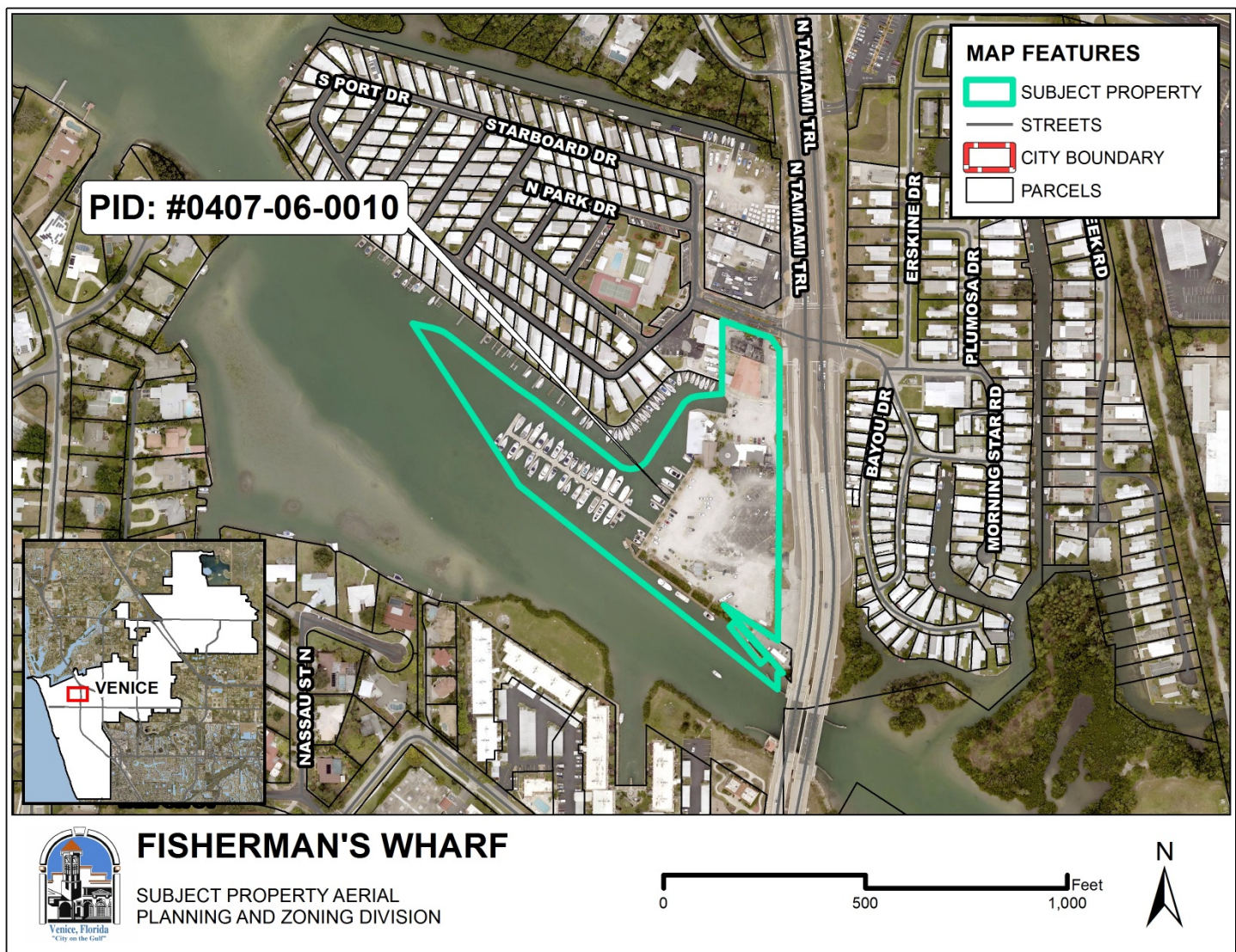
MEASUREMENT	RESULTING BUILDING HEIGHT
10 feet not included (garage slab of 5.8+10)	15.8 Start of building height measurement
35 foot height permitted in the CG district added	50.8 Max height per the CG district (15.8+35)
20.3 conditional use request	71.1 Roof height (50.8+20.3)

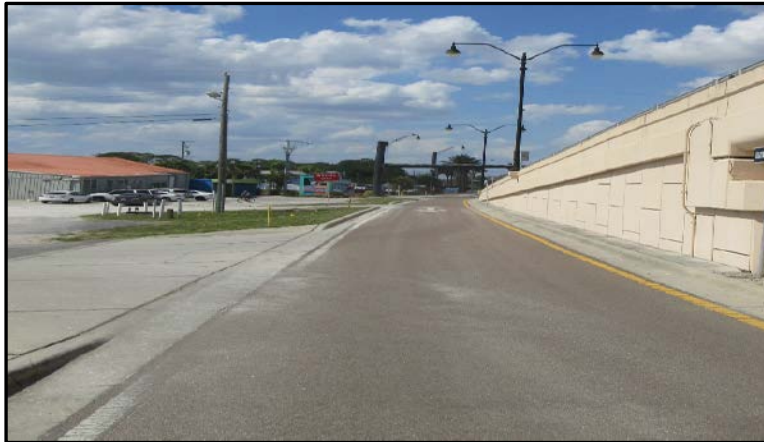


IV. EXISTING CONDITIONS

The subject property is comprised of multiple parcels, including submerged land associated with the marina, with a combined area of $7.2 \pm$ acres, comprised of $3.5 \pm$ acres of upland and $3.7 \pm$ acres of submerged land. The aerial below shows the existing use of the subject property as well as adjacent properties. The subject property is located immediately west of the Kentucky Military Institute (KMI) bridge on north US 41 Business. Vehicular access to the property is provided with a one-way access road to properties located under the KMI bridge. The property also has boat access via the Intracoastal Waterway.

Existing improvements on the site include a restaurant, a commercial building with retail and office uses, two boat repair buildings, a 57-slip marina, a dock master building, off-street parking facilities and signage.





Existing one-way street
parallel to the KMI bridge
that provides access to the
subject property



Residential multi-family
buildings across the Intra-
coastal Waterway



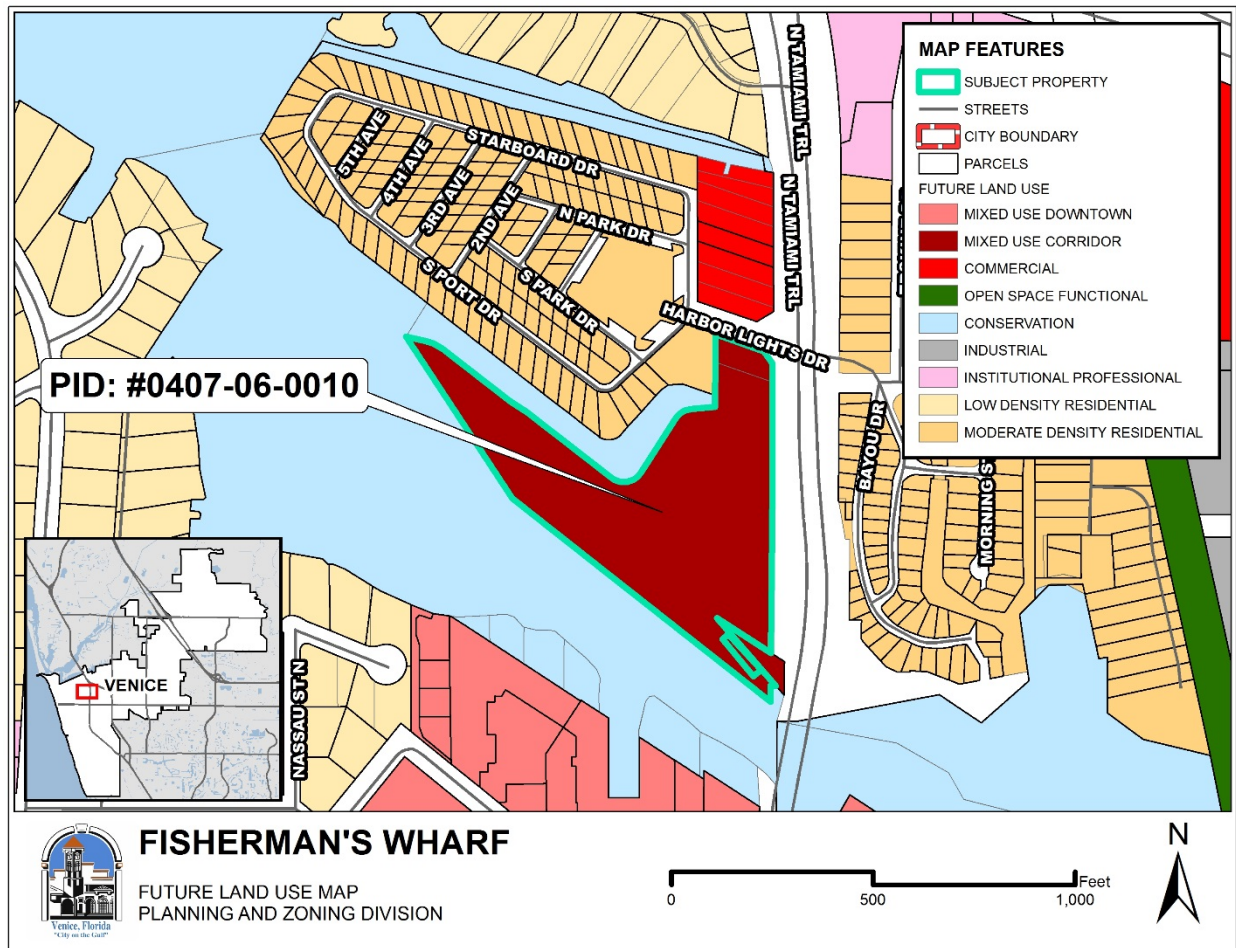
View to the southeast of
the KMI bridge and the
Waterfront buildings



View to the northwest of
Harbor Lights and existing
commercial buildings

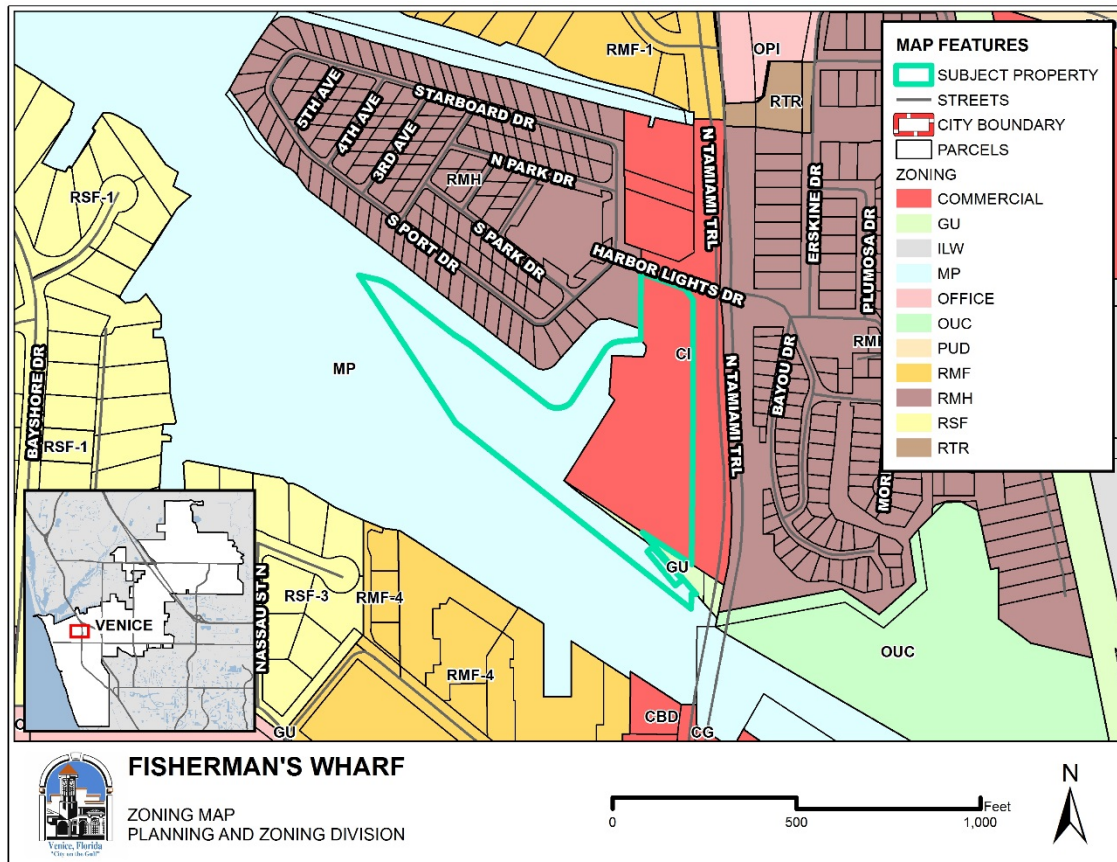
Future Land Use

The subject property is located in the 436 acre Gateway Neighborhood. The following map shows the future land use designation for the subject property and adjacent properties. The subject property has a Mixed Use Corridor (MUC) designation. Adjacent properties to the north of the subject property have a Commercial and Moderate Density Residential designation. Properties to the east and west of the subject property are designated as Moderate Density Residential and Conservation and to the south is the Intracoastal Waterway and property designated as Mixed Use Downtown.



Zoning Designation

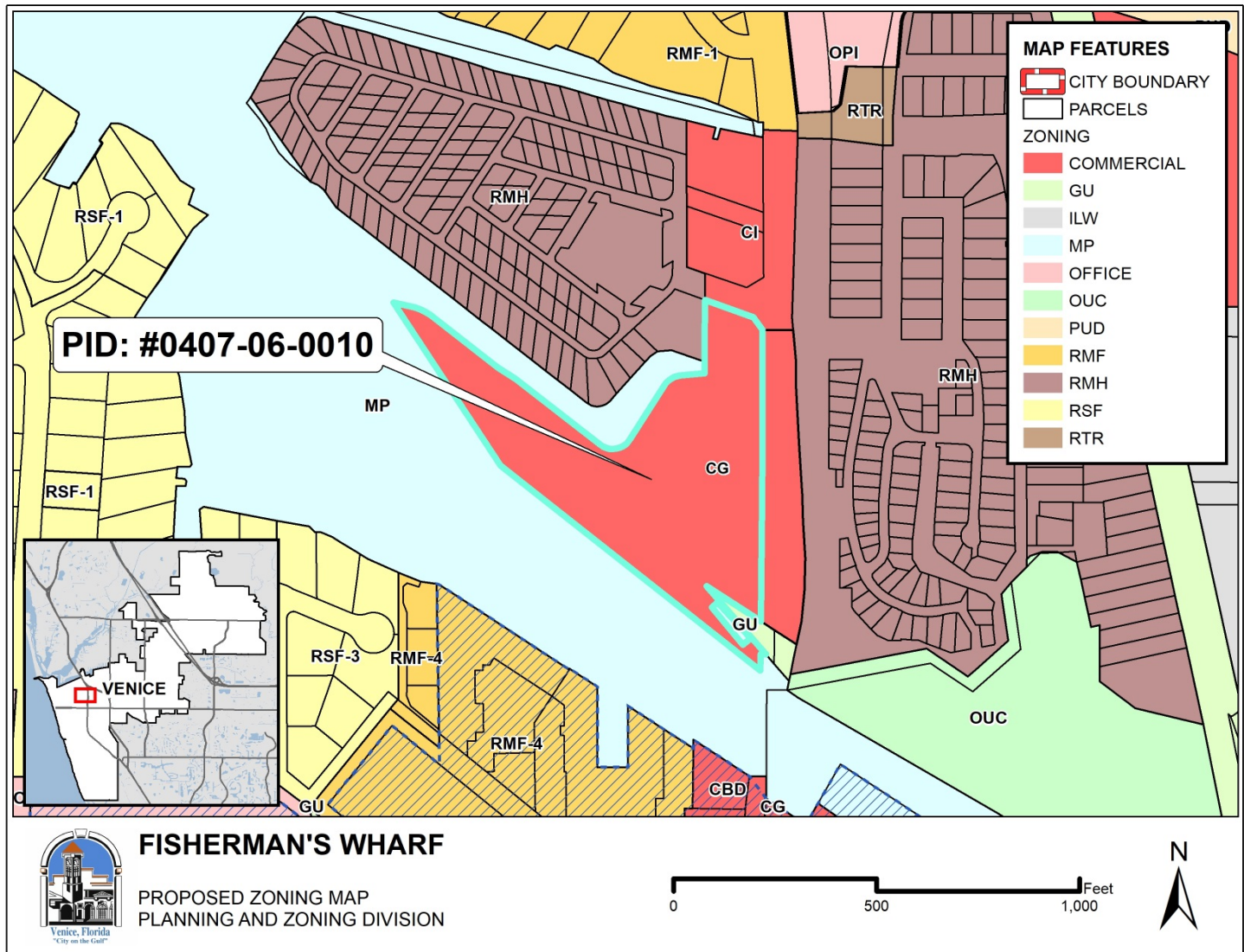
The map below shows the existing zoning of the subject and adjacent properties. The upland portion of the subject property is zoned Commercial, Intensive (CI) and the submerged land portion of the property is zoned Marine Park (MP). Adjacent zoning districts include CI to the north of the subject property, Residential, Manufactured Home (RMH) to the east and west, and MP and Government Use (GU) to the south.



The table below summarizes the existing uses, current zoning, and future land use designations on properties adjacent to the subject property.

Direction	Existing Land Use(s)	Current Zoning District(s)	Future Land Use Map Designation(s)
North	Mobile home subdivision and commercial buildings	Residential, Mobile Home (RMH) & Commercial, Intensive (CI)	Mixed Use Corridor (MUC), Conservation, and Moderate Density Residential
West	Intracoastal waterway and mobile home subdivision	Marine Park (MP) & RMH	Moderate Density Residential and Conservation
South	Intracoastal waterway and police substation and boat dock	Government Use (GU) and MP	Conservation and Mixed Use Downtown (MUD)
East	US 41 Business and mobile home subdivision	RMH	U.S. 41 Business and Moderate Density Residential

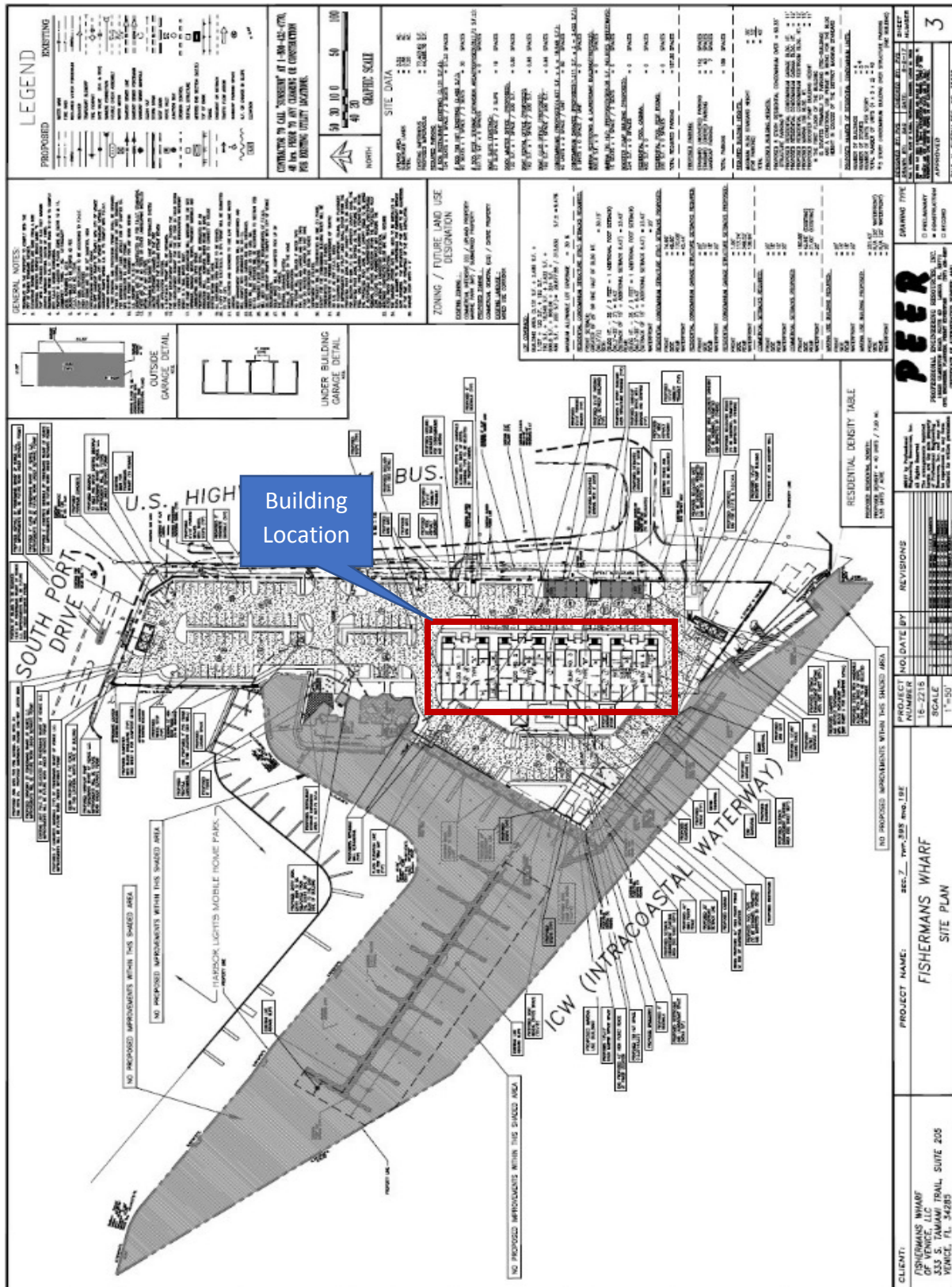
The map below depicts the proposed Commercial, General (CG) district that has been requested through zoning map amendment petition No. 17-11RZ. The conditional use petition has been reviewed under the CG code standards.



Flood Zone Information

The FEMA Flood Insurance Rate Map (FIRM) shows the subject property with a Zone AE FIRM designation with high to low flood risk. This flood zone designation is in a Special Flood Hazard Area and subject to base flood elevations of 10 and 11 feet. Development of the property will be subject to compliance with applicable FEMA requirements.

PROPOSED SITE PLAN



V. PLANNING ANALYSIS

In this section of the report, specific analysis of the subject conditional use petition evaluates 1) consistency with the comprehensive plan, and 2) compliance with the City's Land Development Code (LDC).

A. Consistency with the Comprehensive Plan

The 2017 Comprehensive Plan identifies the subject property as being within the 436-acre Gateway Neighborhood. The subject property has a Mixed Use Corridor (MUC) future land use designation.

In the 2010 Comprehensive Plan, the subject property was designated with a future land use of Northern Gateway (Planning Area F) and Waterway. As indicated in the background section of this report, Comprehensive Plan Amendment Petition No. 17-02CP was approved and adopted on September 26, 2017 that changed the future land use to Commercial and thereby removed it from the Northern Gateway planning area. As a result of this approval, the subject property was no longer restricted to the height limitations of 45 feet in the planning area. Along with the proposed rezoning of the property to CG, this allows the applicant to seek additional building height through the conditional use process.

Strategy LU 1.3.7, Infill Development – Compatibility, reads as follows:

New buildings and development shall relate to the context of the neighborhood and community with regard to building placement, height and design.

This strategy addresses the same compatibility-related topics that are addressed in Strategy LU 4.1.1, which includes Policy 8.2, Land Use Compatibility Review Procedures. Planning analysis for consistency with Policy 8.2 is provided below.

Strategy LU-GW 1.1.1, Redevelopment; envisions the Gateway Neighborhood to support redevelopment efforts for mixed-use development.

Strategy LU 4.1.1 brought forward from the 2010 Comprehensive Plan into the 2017 Comprehensive Plan, on a transitional basis, includes Policy 8.2, Land Use Compatibility Review Procedures.

The land use compatibility review procedures contained in Policy 8.2 are intended to ensure that the character and design of infill and new development are compatible with existing neighborhoods. The review requires an evaluation of the following items listed in Policy 8.2 A through H. Staff provided the applicant's response (*from the applicant's site and development plan application*) to each item as well as staff's commentary on each item.

A. Land use density and intensity.

Applicant's Response: The proposed special exception for multi-family dwellings is compatible with the existing neighborhoods.

Staff Comment: *The residential density of 5.5 dwelling units per acre proposed by the subject petition is lower than is currently permitted by both the future land use (13 du/ac) and the zoning district (18 du/ac). Commercial uses currently exist on the subject property. Regarding development intensity specific to the proposed petition, the building height proposed is similar to existing building heights to the south*

and southeast.

B. Building heights and setbacks.

Applicant's Response: The proposed buildings are setback substantially beyond code requirements, with the exception of the multi-family garage structures addressed previously and therefore will be compatible with existing neighborhoods.

Staff Comment: The following table provides the height and number of floors for proposed buildings on the subject property and number of floors of buildings on adjacent and area properties.

Height of Proposed Buildings on Subject Property	
<i>Residential Multi-Family</i>	<i>60 feet, 2 inches; 5 stories over 1 story of parking</i>
<i>Restaurant Expansion</i>	<i>20 feet, one story</i>
<i>Marina Use Building</i>	<i>15 feet; one story</i>
Height of Existing Buildings on Adjacent and Area Properties	
<i>Bella Costa Multi-Family</i>	<i>3 and 4 story buildings</i>
<i>Harbor Lights Manufactured Home Park</i>	<i>1 story manufactured homes</i>
<i>625 N. Tamiami Trail (commercial building)</i>	<i>1 story commercial building</i>
<i>Costa Brava (2 towers)</i>	<i>9 story buildings</i>
<i>Waterfront (3 towers)</i>	<i>9 story buildings; 8 stories over 1 story of parking</i>

With the exception of two, one-story detach garage buildings, all proposed buildings meet or exceed the minimum yard setbacks required by the proposed CG District. Through a concurrently processed special exception petition, the applicant is requesting a code modification from Section 86-92(j)(4)a to reduce the minimum front yard setback for the detached garages from 20 feet to one foot.

C. Character or type of use proposed.

Applicant's Response: The proposed special exception for multi-family use is in character with the neighborhood.

Staff Comment: The majority of uses surrounding the subject property are residential with the only non-residential uses being located on the subject site along with the adjacent Venice Police Department marine facility.

D. Site and architectural mitigation design techniques.

Applicant's Response: The site has been substantially redesigned to improve access and circulation throughout, and proposes to improve the site by removing older outdated structures on the north end of the property and replacing with updated condominium buildings consistent with the architectural character of the City.

Staff Comment: *The proposed residential buildings have been designed consistent with the City's architectural style. In addition, increased setbacks have been applied to the structure.*

Policy 8.2 E through H lists considerations for determining compatibility. Staff provided the applicant's response to each consideration as well as staff's commentary on each consideration.

E. Protection of single-family neighborhoods from the intrusion of incompatible uses.

Applicant's Response: Not applicable.

Staff Comment: *The Harbor Lights Mobile Home Park abuts a portion of the subject property's west boundary. The mobile home park's office and three recreational vehicle sites are located along the shared property line. Adjacent multi-family residential development is located on the south side of the intracoastal waterway.*

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

Applicant's Response: Not applicable.

Staff Comment: *Commercial uses currently exist on the subject property. The subject petition provides for expansion and addition of commercial use and also removes some commercial use of higher intensity than that being expanded. No industrial uses are proposed.*

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.

Applicant's Response: Not applicable.

Staff Comment: *This consideration is not applicable. There are no nonconforming uses on the subject property.*

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

Applicant's Response: The proposed special exception for multi-family use is compatible with the existing neighborhood.

Staff Comment: *Information on existing uses is provided with the aerial photograph on page 5, the photographs of adjacent existing uses on page 6 and the table on page 8, which identifies existing uses adjacent to the subject property. The following table provides data on proposed residential density and non-residential intensity; and existing residential density and non-residential intensity.*

Proposed Residential Density and Non-Residential Intensity on Subject Property	
<i>Residential Multi-Family</i>	<i>5.55 dwelling units per acre</i>
<i>Restaurant and Marine Use Building</i>	<i>0.02 FAR</i>
Existing Residential Density or Non-Residential Intensity on Adjacent Property	
<i>Bella Costa Multi-Family</i>	<i>28.4 dwelling units per acre</i>
<i>Harbor Lights Manufactured Home Park</i>	<i>11.9 dwelling units per acre</i>
<i>625 N. Tamiami Trail (commercial building)</i>	<i>0.18 FAR</i>

Sources of Data: 1) Parcel boundaries (for land area) and existing gross floor area data were obtained from the Sarasota County Property Appraiser records. 2) Address points (for dwelling units) were obtained from the Sarasota County Geographic Information System (GIS).

Based on the above evaluation there is adequate information to make a determination regarding compatibility with the surrounding properties and to make a finding on considerations E. thru H.

Potential incompatibilities 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.*

Staff Comment (I-N): *The applicant has provided mitigation techniques with the proposed project including landscaped buffers, which include trees, hedges and fencing along with a proposed upland setback enhancement area along the southern waterfront boundary to include 800 salt water tolerant species. Increased setbacks are being applied to the residential buildings and, in all cases, is more than twice the code requirement. Road access is already minimized through the one-way access to the site. Higher intensity uses of boat sales, service and repair are being removed to accommodate the redevelopment of the site. The mitigation techniques that are being implemented are included within the conditions provided in Code Section 86-42(f) listed later in this report that may be imposed on a conditional use to minimize any negative impacts on the surrounding properties.*

Also included in the transitional language provided in Strategy LU 4.1.1 is Policy 9.5 for conditional use building height allowances. This policy directs the updated LDC to include an evaluation of the current process and consider height allowances from base height standards. Under this policy, the subject petition would be considered a major deviation as it seeks to add one or more additional floors.

Conclusions / Findings of Fact (Consistency with the Comprehensive Plan):

The subject petition may be found consistent with the Land Use Element strategies applicable to the Mixed Use Corridor (MUC) future land use designation and Policy 8.2 regarding compatibility. In summary, the subject petition may be found consistent with the Comprehensive Plan.

B. Compliance with the Land Development Code

The subject petition has been processed with the procedural requirements contained in Section 86-42 of the Land Development Code (LDC). In addition, the petition has been reviewed by the Technical Review Committee and no issues regarding compliance with the Land Development Code were identified.

Section 86-42(e) of the Land Development Code identifies the contents of planning commission recommendation as follows:

(e) Contents of planning commission recommendation. The planning commission shall make a recommendation to the city council as to whether or not the granting of the conditional use will adversely affect the public interest; as to whether or not the specific requirements governing the individual conditional use, if any, have been met by the petitioner; and as to whether or not satisfactory provisions and arrangement has been made concerning the following matters, where applicable:

To facilitate the Planning Commission's review of the subject conditional use petition, staff has provided each of the considerations referenced in the above code provision, the applicant's response to each of the considerations and staff's commentary on selected considerations in which additional information can be brought to the Planning Commission's attention.

(1) Compliance with all applicable elements of the comprehensive plan.

Applicant's Response: The proposed conditional use is in compliance with all applicable elements of the comprehensive plan. No building height restrictions within the Comprehensive Plan apply to the subject property.

Staff Comment: *As indicated in the above analysis, the proposed petition may be found consistent with the comprehensive plan.*

(2) General compatibility with adjacent properties and other properties in the district.

Applicant's Response: The proposed development is compatible with adjacent properties and other properties in the district which include a mix of commercial and residential uses of varying building heights. The proposed building heights are also compatible due to the proximity to the large scale bridge immediately to the east of the subject property.

Staff Comment: *Analysis of the projects compatibility has been provided above .*

(3) Scale of development. The relationship of the project or development in terms of its size, height, bulk, massing, intensity, and aesthetics, to its surroundings.

Applicant's Response: The scale of the proposed development is compatible with the size, height, bulk, massing, intensity and aesthetics of the surrounding area, including other similarly sized buildings in the area, and due to its proximity to the large scale bridge immediately to the east of the property.

Staff Comment: *Multiple techniques to increase compatibility have been employed by the applicant including increased setbacks, buffering, enhanced landscaping, fencing, access management, and architectural design*

consistent with the City's style. There are also taller buildings to the south and southeast of the proposed project.

- (4) Required yards and other open space.

Applicant's Response: The multi-family buildings proposed for a conditional use for additional height meet or exceed all requirements for yards and open space, and are located hundreds of feet from the nearest residential uses.

Staff Comment: *Increased setbacks up to twice the code requirement are being provided.*

- (5) Screening and buffering, with reference to type, dimensions and character.

Applicant's Response: The proposed development is appropriately screened and buffered to ensure compatibility with the surrounding area.

- (6) Transportation access management and congestion with particular reference to automotive and pedestrian safety and convenience, traffic flow and control.

Applicant's Response: Access management for the site has been designed to provide for safe and convenient movement of automotive and pedestrian traffic and is an improvement to the current access management on site.

- (7) Off-street parking and loading areas, where required.

Applicant's Response: Off-street parking requirements and loading areas will meet or exceed all City requirements.

- (8) Value added considerations including tax base diversification, employment, and affordable housing unit expansion.

Applicant's Response: The proposed development will improve the aesthetics of an important gateway to the City which is in need of redevelopment.

Staff Comment: *Potentially the tax base will be increased due to the inclusion of residential use on the subject property. The project is not being proposed as an affordable housing project.*

- (9) Any special requirements set out in the schedule of district regulations of this chapter for the particular use involved.

Applicant's Response: Not Applicable.

Code Section 86-42(f) provides for the following "Conditions of Approval" for any request for conditional use that may be considered by the City:

- (f) *Conditions of approval.* The city may impose conditions that are found necessary to ensure that the conditional use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the

surrounding uses and public facilities is minimized. These conditions may include, but are not limited to, the following:

- (1) Requiring site or architectural design features which substantially advance Venetian Mediterranean design standards or other appropriate architectural design compatible with the surrounding area;
- (2) Requiring larger setback areas, lot area, and/or lot depth or width;
- (3) Limiting the building structure height, size or lot coverage, and/or location on the site;
- (4) Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
- (5) Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
- (6) Requiring and designating the size, height, location and/or materials for fences;
- (7) Limiting or setting standards for the location, design, and/or intensity of outdoor lighting and signage;
- (8) Designating the size, number, location and/or design of vehicle access points or parking areas;
- (9) Requiring street right-of-way to be dedicated and streets, sidewalks, curbs, planting strips, pathways, or trails to be improved;
- (10) Encouraging the protection and preservation of natural features including existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources and/or sensitive lands; and
- (11) Requiring the dedication of sufficient land to the public, and/or construction of pedestrian/bicycle facilities including, but not limited to, pathways, gazebos, public art displays and other such pedestrian amenities.

As indicated earlier in this report, the mitigation techniques provided in Policy 8.2 regarding compatibility, some of which are being implemented with this project, are similar to the above conditions.

Conclusions / Findings of Fact (Compliance with the Land Development Code):

Required Planning Commission Findings for Conditional Use Approval: The following may be found regarding the conditional use petition

- *Will not adversely affect the public interest,*
- *Any specific requirements governing the individual conditional use, if any, have been met by the petitioner,*
- *Satisfactory provision and arrangement have been made concerning the matters listed in Section 86-42(e).*

V. CONCLUSION

Planning Commission Report and Recommendation to City Council

The Planning Commission is required to study and consider the factors contained in Section 86-42(e) and make a report and recommendation regarding conditional use petitions to City Council. This staff analysis and report has been conducted to provide the Planning Commission with competent and substantial evidence to support a

recommendation to City Council. The application and supporting documentation, factors and/or considerations included in the staff report are provided to render a decision regarding this petition. A summary of all staff findings of fact is included in the Executive Summary providing a basis for recommendation.

Stipulation: The Conditional Use Petition No. 17-02CU will become effective upon approval of Zoning Map Amendment Petition No. 17-11RZ by City Council.