Project: GCCF PUD
Variance Petition No. 19-38VZ

Staff Report

Applicant: Border Road Investments, LLC, Myarra Property Joint Ventures, LLC, Woolridge Investment-Florida, LLC, and FC Laurel, LLC **Parcel ID #:** Multiple

Agent: Jeffery A. Boone, Esq., Boone Law Firm **Property Size:** 300± acres

Future Land Use Designation: Mixed Use Residential
Existing Zoning: Commercial, Mixed-Use (CMU) and Planned Unit Development (PUD)
Proposed Zoning: Planned Unit Development (PUD)

Technical Review Committee (TRC): The subject petition has been reviewed by the TRC and has been found in compliance with the regulatory standards of the City Code of Ordinances, with the exception of the variance request.

Summary of Variance Request Per Code Section 86-42 Conditional Use:

The applicant is requesting a variance from Section 86-130(h) regarding the maximum height of structures in the PUD district. The maximum height of structures in the PUD zoning district is 35 feet and the applicant proposes a maximum structural height of 42 feet. Final determination requires City Council action.

Conditional Use Per 86-42

During the process of review of the identified application, it was determined that, based on Code Section 86-130(h), a Conditional Use would be required to enable the applicant to achieve the requested structure height of 42 feet for the GCCF project. Code Section 86-42 provides the criteria and procedures for the processing of a Conditional Use. This section provides the following language:

> *(a) Generally. A conditional use is an allowance with regard to height, density, or gated communities authorized only through approval by city council upon recommendation by planning commission. The city council may authorize the following allowances as a conditional use if the zoning district specifically allows for the conditional use:*
>
> *(1) An allowance resulting in an increase to building height equal to or greater than ten feet over the maximum height of structures in each zoning district. Building height allowances less than ten feet over the maximum height of structures in each zoning district shall be handled as a variance, per section 86-46.*

As indicated in (1) above, *"Building height allowances less than ten feet over the maximum height of structures in each zoning district shall be handled as a variance, per section 86-46."* Due to the applicant's proposal of an increase in building height of seven feet, the request is being processed as a variance. However, since Code section 86-130(f) indicates that a *"Conditional Use is permissible in the PUD district after public notice and hearing by City Council"*, Planning Commission's determination on the Variance request will be a recommendation to City Council for ultimate consideration.

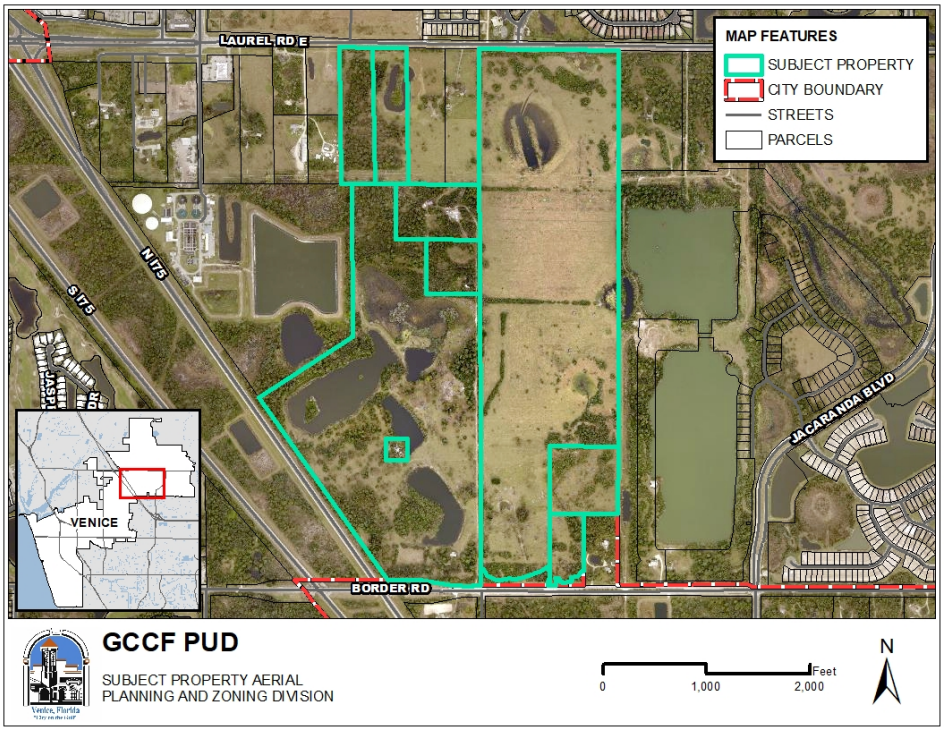
I. BACKGROUND / OVERVIEW OF VARIANCE REQUEST

The GCCF PUD property is comprised of approximately 300 acres and is located within the Northeast Neighborhood. A proposed Zoning Map Amendment to rezone the subject property from CMU and PUD to a unified PUD was approved on first reading on July 9, 2019 by City Council and is proceeding to final reading. Per the Conditional Use process outlined above, the applicant is seeking a variance for increased building height in the PUD zoning district.

The maximum structure height in the PUD zoning district is 35 feet. An additional 10 feet for one story devoted primarily to parking within the structure may be added to the limit increasing the maximum height to 45 feet. The condition for parking within the structure is required to be met in order to achieve this height. Therefore the maximum height is limited to 35 feet if the parking condition is not met. However, the overarching standard of the Comprehensive Plan controls the maximum achievable height and that standard restricts maximum height to 42 feet based on the transition language of the Comprehensive Plan and the previous planning areas. The applicant has limited the request to allow for buildings up to 42 feet within the GCCF PUD. The binding master plan is provided on page 4 of this report.

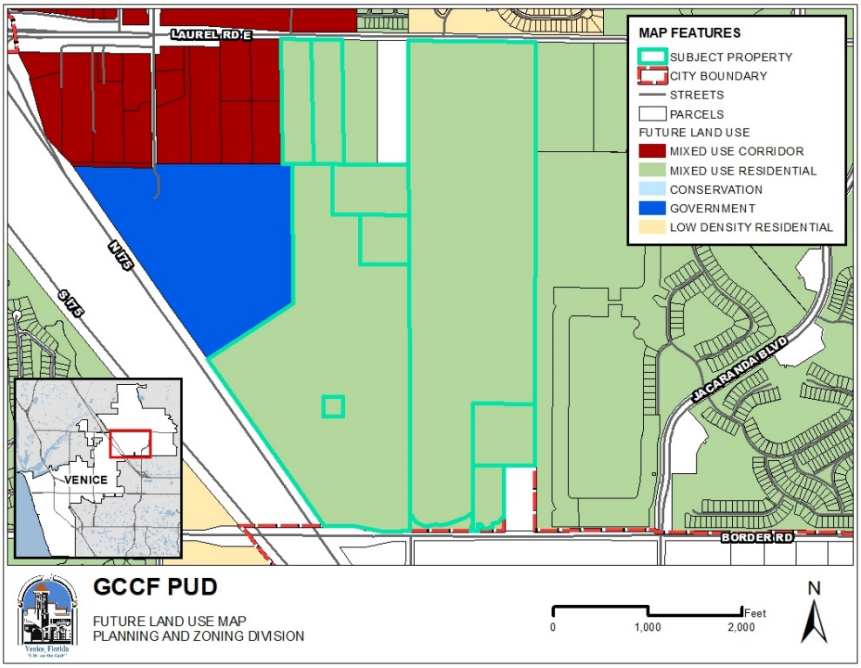
II. SUBJECT PROPERTY / SURROUNDING PROPERTY INFORMATION

The subject property is depicted on the aerial below and indicates existing conditions of the subject and surrounding properties.



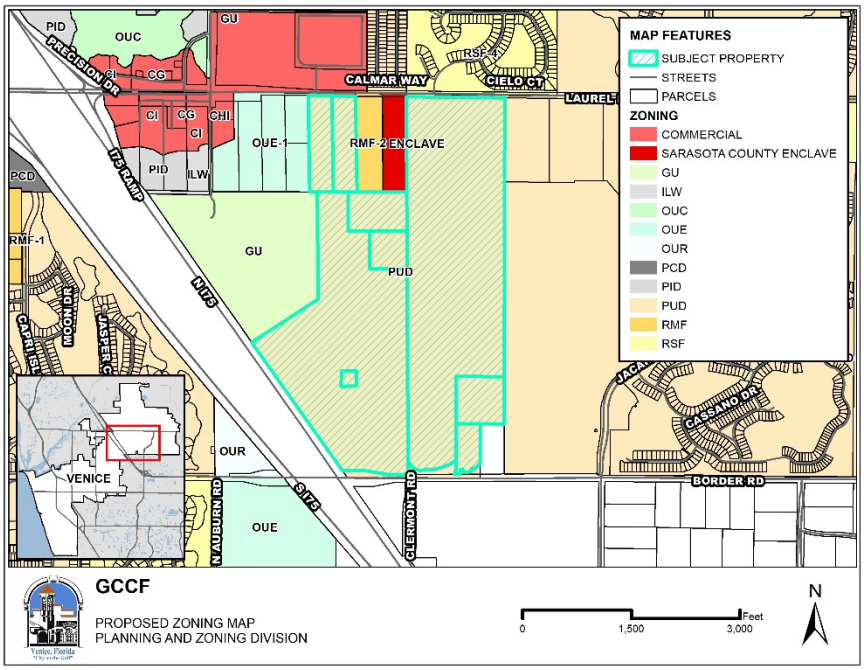
Future Land Use:

The future land use map below depicts the subject and surrounding properties. The proposed land use for the subject property is Mixed Use Residential (MUR). The subject property is adjacent to MUR land use designations to the east, JPA Area 2B to the south and Low Density Residential, Mixed Use Corridor (MUC) and MUR to the north. To the west are land used designations of Government and MUC.



Proposed Zoning:

The map below shows the proposed PUD zoning of the subject property. The subject property is adjacent to PUD zoned property to the east, County Open Use Estate (OUE) zoning to the south and Residential, Single-Family-4 (RSF-4), PUD and CMU zoning to the north. The property to the west contains OUE and Government Use (GU) zoning.



GCCF PUD Binding Master Plan

III. PROCEDURAL REQUIREMENTS FOR VARIANCE REVIEW

The procedural requirements contained in Section 86-46(a) concerning receipt of written petition, notice of public hearing and conduct of hearing have been satisfied. Section 86-46(a)(4) specifies that the Planning Commission shall, based on substantial and competent evidence, make an affirmative finding on each consideration in granting a variance. The applicant has provided a written response to each consideration as part of the submitted application material.

a. Special circumstances exist in relation to the land, structures, or buildings as compared to other land, structures, or buildings in the same zoning district and the special circumstances are not the fault of the applicant.

Applicant's Response: Delays in implementation of updates to the Land Development Regulations following the 2010 Comprehensive Plan update and the ongoing efforts to update the Land Development Regulations following 2017 Comprehensive Plan update, special circumstances which are not the fault of the applicant, have resulted in a partially updated Land Development Code which changed the point to where height is measured (peak of roof) without completing the update to the Land Development Code to adjust allowable building heights accordingly to 42'.

b. The literal interpretation of the provisions of this chapter would result in unnecessary and undue hardship to the property.

Applicant's Response: The literal interpretations of this chapter would result in unnecessary and undue hardship to the property by limiting the applicant's ability to construct buildings in excess of two stories.

c. The variance, if granted, is the minimum variance necessary to meet the requested use of the land, building or structure.

Applicant's Response: The variance request for 42', including parking, is the minimum variance necessary to allow for the construction of three story buildings, and would result in an overall reduction in height from the currently permitted height of 35' over 10' of understructure parking (total of 45').

d. The grant of the variance will be in harmony with the general intent and purpose of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and

Applicant's Response: The grant of the variance will be in harmony with the general intent and purpose of this chapter which is to allow for construction of 3 story buildings. Three story buildings will not be injurious to the neighbors or otherwise detrimental to the public welfare.

Summary Staff Comment: The responses provided above are the basis to allow the Planning Commission to take action on the subject petition.