

From: [Mike Rafferty](#)
To: [Lori Stelzer](#)
Cc: [City Council](#); earle.kimel@heraldtribune.com; ggiles@venicegondolier.com; [Bob Mudge](#)
Subject: Fwd: Council Meeting 12/10/2019 - Ramsey Rd Ord No 2019-36
Date: Wednesday, December 4, 2019 12:23:23 PM
Attachments: [File 1 Nov 8 request to County Re City of Venice Case 19-04RZ Ramsey Rd Multi Family Project.pdf](#)
[Att A Special Magistrates Report and Exhibits.pdf](#)
[Att B Ref to JPA Regarding Road Grid Venice Ave to Hatchet Creek Blvd.pdf](#)
[File 2 Ctv Response to Nov 8 request Fwd City of Venice Case 19-04RZ.pdf](#)
[svnc ipa 07 \(2\) Jan 2007 JPA Table.pdf](#)
[svnc ipa 07 \(2\) Jan 2007 JPA Text.pdf](#)
[svnc ipa 07 \(2\) Jan 2012 JPA Table.pdf](#)
[svnc ipa 07 \(2\) Jan 2012 JPA Text.pdf](#)

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Good Morning Lori,

Please include the attached files in the written record for the subject hearing.

This information pertains to the JPA requirement for connectivity between E Venice Ave and Hatchet Creek Blvd.

File 1 is a request to the County for their TRC comments

File A and File B are attachments to the above and contain the Special Magistrates Report and excerpts therefrom regarding the JPA requirement for the above mentioned connectivity

File 2 is the County reply regarding TRC comments and the JPA requirement for connectivity

The remaining files contain excerpts from the applicable JPA provisions for connectivity.

Thank you,

Mike Rafferty

From: Mike Rafferty <mer112693@aol.com>
To: mer112693 <mer112693@aol.com>
Subject: Fwd: Subject: City of Venice Case 19-04RZ
Date: Wed, Dec 4, 2019 10:26 am

-----Original Message-----

From: Paula Clintsman <pclintsm@scgov.net>
To: Mike Rafferty <mer112693@aol.com>
Sent: Fri, Nov 8, 2019 1:37 pm
Subject: RE: Subject: City of Venice Case 19-04RZ

I've referred your question to the Planner of Day and the individual who reviews municipalities zoning/annexations for Matt. I think he just reviews Comp Plans but I'll see if they can help.

From: Mike Rafferty <mer112693@aol.com>
Sent: Friday, November 8, 2019 1:33 PM
To: Paula Clintsman <pclintsm@scgov.net>
Cc: mer112693@aol.com
Subject: Re: Subject: City of Venice Case 19-04RZ

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Technical Review Comm....see attached list for the County Rep (Matt Osterhoudt)

It is my understanding that the County reviews all our zoning/annexation issues and provides input to the TRC.

Thanks for the prompt response.

Regards,

-----Original Message-----

From: Paula Clintsman <pclintsm@scgov.net>
To: Mike Rafferty <mer112693@aol.com>
Cc: Kim Francel <KFrancel@scgov.net>
Sent: Fri, Nov 8, 2019 1:27 pm
Subject: RE: Subject: City of Venice Case 19-04RZ

I am not sure what a TRC is. I can ask the person who works on JPAs if he can respond to request.

From: Mike Rafferty <mer112693@aol.com>
Sent: Friday, November 8, 2019 1:15 PM
To: Paula Clintsman <pclintsm@scgov.net>
Cc: mer112693@aol.com
Subject: Subject: City of Venice Case 19-04RZ

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Good Afternoon Paula,

This is a request for a copy of the County report submitted through the TRC for subject project that was considered by the COV Planning Comm on Oct 1, 2019.

In addition, I am asking for the County confirmation of an indication in documentation from the project records that refer to a provision within a JPA that provides for and requires a grid system through this area to interconnect between Venice Ave and Hatchet Creek Blvd (see Att B).

Attached are the following records to help in researching/considering this request:

Att A, Special Magistrates Report with Exhibits

Att B, Excerpt from Att A identifying the requirement for a grid pattern (page 33 of 40)

Att C, Venice PC Staff Report of Oct 1, 2019 on Case19-04RZ

In summary, this request is for a copy of the County Report under the TRC process for this project and also excerpts from any JPA documentation regarding a grid roadway system in this area.

Thank you in advance for you assistance.

Regards,

M R Rafferty PE (Ret)

RECOMMENDATION OF THE SPECIAL MAGISTRATE

In Response to the Request For Relief
Filed by Discovery Village at Venice, LLC and
The Reserve at Venice, LLC (together "Petitioner")
Relating to the Use of Property Situated in the City of Venice, Florida

I. INTRODUCTION

The Petitioner is the owner and proposed developer of an active adult community originally proposed to include 144 dwelling units and related facilities (the "Project") on a 15 acre (mol) parcel located east of Pinebrook Road on Hatchett Creek Boulevard (the "Property"). On November 20, 2007, the Petitioner filed a Request for Relief ("Request") pursuant to Section 70.51, Florida Statutes (2007), cited as the Florida Land Use and Environmental Dispute Resolution Act (the "Dispute Resolution Act"), a copy of which Request is attached hereto as "Exhibit 1" and incorporated herein by reference. The City of Venice (the "City") subsequently filed its Response to Request for Relief on December 5, 2007 ("Response"), a copy of which Response is attached hereto as "Exhibit 2" and incorporated herein by reference. Other supplemental documents were subsequently filed by the parties and are contained in the record.

The Request sought relief from a condition included in Ordinance No. 2007-39 approving the zoning of the Property to Residential Multi-Family-3 (RMF-3). The condition giving rise to this dispute resulted from City Council's decision to reduce the proposed density of the Project from 9.6 units per acre (144 units) to 7 units per acre (105 units). The Comprehensive Land Use Plan designation for the Property is Moderate Density Residential (MDR), which designation would allow, subject to appropriate zoning, a density between 6 and 13 units per acre (theoretically allowing up to 195 units to be developed on the Property). The project abutting the west boundary of the Project, Aston Gardens, which was also developed by the Petitioner, is zoned PUD and has a density of 8.9 units per acre. The property located to the north of the subject Property has a commercial land use plan designation, is zoned CG/VG, and has been developed as a commercial shopping center.

II. THE REQUEST FOR RELIEF

A review of the Petitioner's Request demonstrated compliance with the minimum sufficiency requirements contained in Section 70.51(6), Florida Statutes (2008). Furthermore, there were no non-judicial local government appeal remedies available for the Petitioner. The initiation of a special magistrate proceeding tolls the time for seeking judicial review of a local government development order or enforcement action until the special magistrate's recommendation is acted upon by the local government. Accordingly, the Request met all of the requirements contained in the Dispute Resolution Act, and the time for seeking judicial review of the City Council's action is tolled until such time as the Special Magistrate process is completed.

III. THE ROLE OF THE SPECIAL MAGISTRATE

The intent of the Dispute Resolution Act is to provide an opportunity to amicably resolve land use disputes between property owners and local governments, and avoid the time, costs, and uncertainty associated with litigation. The Dispute Resolution Act emphasizes that the first responsibility of the Special Magistrate, is to "...facilitate a resolution of the conflict between the owner and governmental entities to the end that some modification of the owner's proposed use of the property or adjustment in the development order or enforcement action or regulatory efforts by one or more of the governmental parties may be reached." (See Section 70.51(17)(a), Florida Statutes (2008)). Notably, Section 70.51(29), Florida Statutes, requires that the Dispute Resolution Act "...shall be liberally construed to effect fully its obvious purposes and intent, and governmental entities shall direct all available resources and authorities to effect fully the obvious purposes and intent of this section in resolving disputes."

Therefore, the Special Magistrate focused the January 16, 2008 mediation proceeding on attempting to seek a compromise between the City and the Petitioner that would, to the extent possible, meet the parties' generalized respective goals and expectations.

IV. DESCRIPTION OF THE MEDIATION PROCEEDING

Pursuant to Section 70.51(17), Florida Statutes (2008), the mediation proceeding was scheduled for January 16, 2008 and was appropriately noticed. At this proceeding, both the Petitioner's and City's representatives made presentations and offered testimony and evidence. The proceeding was informal in nature and all individuals who desired to participate were provided an opportunity to speak without any time limitations being imposed. The proceeding commenced at 9:00 a.m. and concluded at approximately 11:30 a.m.

At the mediation proceeding, the parties agreed that the issues of concern to the City were density and potential future traffic issues when undeveloped lands situated in Area 5 – South Venice Corridor of the Joint Planning Agreement/Interlocal Service Boundary Agreement ("JPA") are ultimately developed. At the mediation, the Petitioner submitted its Transportation Concurrency Study dated May 2007 ("Concurrency Study") that was prepared by Kimley-Horn and Associates, Inc. The Concurrency Study was prepared in response to the City's concern regarding potential adverse traffic impacts generated by the Project on the surrounding transportation network. The Concurrency Study was submitted by the Petitioner to the City in conjunction with the rezoning application as an attachment to the "Narrative" in support of the application.

The Concurrency Study was prepared in accordance with a methodology approved by the City's designated traffic review consultant, the Southwest Florida Regional Planning Council ("SWFRPC"). The Concurrency Study employed worst case assumptions (145 units; residential condominium/ townhome trip rates), rather than trip rates associated with retirement communities that have a lower trip generation rate and lower P.M peak hour impacts. The Concurrency Study concluded in pertinent part that "the study roadway segments currently operate at or above the adopted LOS C performance standard during the p.m. peak hour," as well as "during the future 2010 p.m. peak hour, and with no roadway improvements required." The Concurrency Study further concluded that during the P.M. peak hour, which includes the period of 4:00 P.M to 6 P.M., the Project would generate 82 new trips, with 55 entering and 27 exiting.

Notably, the Concurrency Study constitutes the only substantial competent evidence in the record of the rezoning proceedings concerning the status of the existing surrounding transportation network, and potential impacts of the Project. In addition, the record indicates that the assumptions and conclusions set forth in the Concurrency Study were not disputed by either the City or SWFRPC.

The parties agreed that the City's concerns could possibly be addressed by converting the RMF-3 zoning to a PUD zoning that would allow the City to incorporate a binding specific development plan and conditions of approval on the plan ("PUD Plan"). The Petitioner subsequently prepared such a PUD Plan, a copy of which is attached as "Exhibit 3" and incorporated herein by reference. The PUD Plan incorporated the following changes to the Project:

1. Changed the zoning from RMF-3 to PUD, with conditions;
2. Reduced the Project density from 9.6 units per acre to 7.9 units per acre, resulting in a maximum of 120 units (a reduction of 24 units or 16 percent from the original rezoning application); and
3. Reduced the maximum building height from three (3) stories over parking to two (2) stories over parking.

On October 29, 2008, the parties convened a conference call to review the PUD Plan and the process and schedule for presenting it to City Council as a proposed settlement of this dispute. However, the City Attorney and City staff had apparently not yet met to review these matters, so the call was then terminated with the understanding that the City would have its internal meeting and advise the Petitioner and the Special Magistrate of the results.

Evidence in the record indicates that on November 10, 2008 the City advised the Petitioner that it would not present the Petitioner's proposed settlement to City Council and that because of this impasse, the Petitioner should determine whether it desired to proceed with the dispute resolution process by requesting an additional hearing. The hearing would result in the Special Magistrate making a written recommendation to City Council based on findings to determine whether or not the density restriction condition was unreasonable and/or unfairly burdened the use of the Petitioner's Property. In accordance with the Dispute Resolution Act, the Petitioner exercised its right to have an additional hearing. The hearing was conducted on January 30, 2009 at Venice City Hall.

V. STANDARDS FOR DETERMINING WHETHER THE CITY'S DENSITY RESTRICTION IS UNREASONABLE OR UNFAIRLY BURDENS THE PROPERTY.

Section 70.51(18), Florida Statutes (2008), establishes criteria that the Special Magistrate may consider in determining whether the City Council's density reduction was unreasonable and/or unfairly burdened the Property:

"18. The circumstances to be examined in determining whether the development order or enforcement action, or the development order or enforcement action in conjunction with regulatory efforts of other

governmental parties, is unreasonable or unfairly burdens use of the property may include, but are not limited to:

(a) The history of the real property, including when it was purchased, how much was purchased, where it is located, the nature of the title, the composition of the property, and how it was initially used.

(b) The history or development and use of the real property, including what was developed on the property and by whom, if it was subdivided and how and to whom it was sold, whether plats were filed or recorded, and whether infrastructure and other public services or improvements may have been dedicated to the public.

(c) The history of environmental protection and land use controls and other regulations, including how and when the land was classified, how use was proscribed, and what changes in classifications occurred.

(d) The present nature and extent of the real property, including its natural and altered characteristics.

(e) The reasonable expectations of the owner at the time of acquisition, or immediately prior to the implementation of the regulation at issue, whichever is later, under the regulations then in effect and under common law.

(f) The public purpose sought to be achieved by the development order or enforcement action, including the nature and magnitude of the problem addressed by the underlying regulations on which the development order or enforcement action is based; whether the development order or enforcement action is necessary to the achievement of the public purpose; and whether there are alternative development orders or enforcement action conditions that would achieve the public purpose and allow for reduced restrictions on the use of the property.

(g) Uses authorized for and restrictions placed on similar property.

(h) Any other information determined relevant by the special magistrate.”

VI. FINDINGS

After consideration of the Petitioner’s Request For Relief, the City’s Response to the Request, along with testimony and evidence presented by the parties in these proceedings as they relate to the above-quoted circumstances that may be examined, I make the following findings:

1. The Property was annexed into the City on January 10 and June 27, 2006 and the City approved a Comprehensive Plan Amendment to designate the Property MDR on November 28, 2006. The Petitioner purchased the Property on July 27 and September 22, 2006.

The annexation and City Comprehensive Plan Amendment are consistent with the Joint Planning Area/Interlocal Services Boundary Agreement between the City and Sarasota County (the "JPA") that designates the land to the east of the Property (JPA Area 5) for a density from 6 to 13 dwelling units per acre. The MDR designation on the Property permits multi-family development at a density between 6 and 13 dwelling units per acre, to be implemented by a rezoning in accordance with the City's Land Development Regulations ("LDRs").

The Petitioner and the City's professional planning staff engaged in discussions on several occasions to discuss the proposed Project prior to annexation and the Petitioner's acquisition of the Property. According to the Petitioner, during the course of these meetings, City staff did not indicate that the proposed Project's density of 9.6 units per acre was problematic or should be reduced. However, the Petitioner testified during the course of the hearing that the City's staff also advised the Petitioner that there were obviously no guarantees that the Petitioner could achieve the density for the Project that it was seeking. (See Sections 70.51(18)(b),(e), Florida Statutes (2008)).

2. Pursuant to the Pre-Annexation Agreements between the various owners of the Property and the City, the properties were required to be rezoned within 1 year of the City's adoption of the ordinances annexing the Property into the City limits. Accordingly, the Petitioner filed its rezoning application which was ultimately approved on October 23, 2007, subject to certain conditions imposed by the City Council. Notwithstanding the City's rezoning of the Property, no development has occurred on the Property pending resolution of this dispute. (See Section 70.51(18)(b), Florida Statutes (2008)).

3. According to the City's planning report analyzing the merits of the Petitioner's rezoning application, City staff concluded that "... Staff has conducted a thorough review of the Venice Comprehensive Plan, the 2006 Venice Strategic Plan and land development regulations to ensure consistency with guiding policy statements adopted within the City's planning framework." Consequently, City staff provided a favorable recommendation to both the Planning Commission and City Council for rezoning the Property subject to conditions limiting the height, architectural details, and a density cap of 144 units, Section 70.51(8)(c), Florida Statutes (2008)).

The Staff Report also contained the following notes:

- (a) The request is for an approximately 15 acre site located on the north side of Hatchett Creek Boulevard, just east of Pinebrook Road, adjacent to Aston Gardens. The Property was annexed into the City in 2006.
- (b) The request is a change from Sarasota County "Open Space Use Estate-1" (OUE-1) to City of Venice Residential Multi-Family 3 (RMF-3), with a proposed project density of 9.6 units per acre and a maximum building height of 45 feet, plus 10 feet of parking.
- (c) The rezoning application will fulfill a condition of the Pre-Annexation Agreement that the future land use designation and zoning for the property were converted to the City's regulatory control.

(d) The Project satisfies the “Compatibility” standard of the JPA because the proposed moderate density, multi-family development transitions between existing commercial uses to the north and existing low density residential to the east; and it is consistent with the existing moderate-density residential to the west, and the JPA (Area 5) mid range intensity residential (6 – 13 units per acre) to the east.

(e) The site and development plan provide for increased building setbacks to reduce visual impact.

The City staff also prepared a power point slide that was included in its Staff Report, which identified the land uses surrounding the Property:

	USE	LAND USE DESIGNATION
North	Shopping Center	Commercial
West	Aston Gardens	Moderate Density Residential (5-13)
South	Single Family	County Moderate Density (2-5)
East	Single Family	County Medium Density (5-9)

The Staff Report then made the following findings:

(a) The Project as proposed at 144 units (9.6 units/acre) is consistent with Venice Comprehensive Plan, the 2006 Venice Strategic Plan and the City’s land development regulations.

(b) The report provided by the applicant demonstrates consistency of the request with housing, transportation, utilities and future land use policies adopted by the City for new growth and development.

(c) The Project is not located within the JPA established by the City and County, but is located to the west of Area 5 of the JPA, and meets the applicable JPA Compatibility Principles per Section 11 (I) of the JPA/ILSBA.

(d) There are no jurisdictional wetlands or protected plant or animal species on the Property.

(e) There are no outstanding technical issues that preclude approval of the Project.

4. Based on City staff’s self-described thorough review of all applicable rules and regulations, the Staff Report stated as follows:

“Staff Recommendation:

Based on the staff report and the findings of fact, staff recommends approval of the proposed zoning map amendment with the following condition of approval:

Application for site and development plan shall include drawings of sufficient detail to show the architectural definitions of all structures, including full elevations view, roof design and materials, and material samples for wall texture, finish and color.” (See Section 70.51(18)(e), Florida Statutes (2008)).

5. The City Planning Commission conducted a quasi-judicial public hearing on September 4, 2007 to consider the Petitioner’s rezoning application and thereafter provided its recommendation to the City Council. Excerpts from the Planning Commission meeting that were provided by City staff to the City Council are included in the City Council agenda package attached as Exhibit C to the Petitioner’s Request for Relief. Several residents from the area objected to the rezoning expressing concerns about potential impacts to wildlife and increased traffic. At the conclusion of this hearing, the Planning Commission determined that the request was consistent with the Comprehensive Plan and the affirmative Findings of Fact in the record, and recommended that City Council approve the Project with the following stipulations as stated in the proposed Ordinance No. 2007-39, attached as Exhibit D to Petitioner’s Request for Relief:

1. Application for site and development plan shall include drawings of sufficient detail to show the architectural definitions for all structures, including full elevations view, roof design and materials, and material samples for wall texture, finish and color.
2. Maximum residential density of 9.6 units per acre.
3. Total dwelling units shall not exceed 144.
4. Maximum building height limited to three residential floors over one floor of parking.”

(See Section 70.51(18)(e), Florida Statutes (2008)).

6. On October 9, 2007, City Council held a quasi-judicial public hearing to consider the recommendations of approval by City staff and the Planning Commission that are contained in the proposed Ordinance No. 2007-39, allowing for a maximum density of 9.6 units per acre (144 dwelling units). Councilman Moore specifically stated on the record that

“[t]o be honest with you one of the things that concerns me is you are asking for 144 condominium units on this 15 acre parcel and basically there are 7 more 15 acre parcels if you put them together going to east, total of 24 5 acre parcels along Hatchett Creek... not in the City yet, but I would have to be crazy not to anticipate they may very well come into the City... [J]ust hypothetical speaking, if every one of those had 144 units on there

we would be looking at a 1,100 condominium units from this development on down to the City limits.”

At the conclusion of the hearing, City Council approved the proposed ordinance limiting the Project to a density of 9.6 units per acre. A transcript of Council member comments at the October 9, 2007 hearing is attached as “Exhibit 4”. (See Section 70.51(18)(e), Florida Statutes (2008)).

7. On October 23, 2007, City Council held a quasi-judicial public hearing to consider the proposed ordinance for second and final reading. Councilman Moore objected to the Project’s density mentioning several projects in the general area that had densities less than that proposed for the proposed Project. Notably, he apparently did not mention the several other projects in the area with higher densities than the Project. The concerns expressed by Council Members that related to the project’s proposed density were (1) there may be numerous similar projects if the JPA (Area 5) lands along Hatchett Creek Boulevard, that is currently situated in Sarasota County, are annexed into the City; and (2) the potential existed for future problems with traffic on Hatchett Creek Boulevard if the JPA (Area 5) properties were annexed, rezoned and developed at densities similar to the Petitioner’s Property.

After closing the public hearing, City Council approved a revised version of Ordinance No. 2007-39 (Exhibit E to the Request for Relief), still requiring that the Project be developed consistent with the concept plans, but modifying the October 9, 2007 proposed Ordinance by imposing a new condition limiting the density to 7 units per acre or 105 dwelling units, instead of the 9.6 units or 144 units approved by City Council at its October 9, 2007 public hearing.

After the City Council’s public hearing on the Petitioner’s rezoning application was closed, Councilman Moore moved that the Ordinance be approved subject to a reduction in density for the Project from 9.6 units per acre, to 7 units per acre. A review of the record indicates that the Petitioner was not asked by City Council whether it agreed to this reduction in density. A transcription of Council member comments at this hearing is attached as “Exhibit 5”. (See Section 70.51(18)(e), (f), Florida Statutes (2008)).

Notably, the conditions recited in Ordinance 2007-39 are not consistent with the conditions stated in the motion to approve the project. This inconsistency was acknowledged in a Memorandum dated October 31, 2007 authored by Martin P. Black, City Manager to Robert Anderson, City Attorney and Tom Slaughter, attached hereto as “Exhibit 6”. At the Special Magistrate hearing on this matter, when questioned, City staff could not explain who actually made the changes to the Ordinance that did not accurately reflect the City Council’s motion. (See Section 70.51(18)(e), (f), Florida Statutes (2008)).

8. The only evidence contained in the record regarding traffic impacts of the Project is the Concurrency Study submitted by the Petitioner. The Concurrency Study did not identify any road improvements that would be required to accommodate the project at 144 units and in reaching this conclusion, utilized worst case assumptions regarding trip generation characteristics for these units.

9. The City staff report did not identify any transportation problems with or without the project at 144 units. (See Section 70.51(18)(e), (f), Florida Statutes (2008)).

10. The City is authorized to establish conditions of approval for rezoning applications pursuant to Section 86-47(g) of the Venice Code of Ordinances:

“(g) Restrictions, stipulations and safeguards.

(1) In accordance with Sarasota County Ordinance No. 76-51, section 4.c as amended, the planning commission may recommend that a petition to amend or supplement a district be approved subject to stipulations limiting the use of the property. The city council, after receiving the recommendation from the planning commission on a request to amend or supplement a district, may grant or deny such amendment or supplement and may make the granting conditional upon such restrictions, stipulations and safeguards as it may deem necessary to ensure compliance with the intent and purposes of the comprehensive plan.

(2) Restrictions, stipulations and safeguards attached to an amendment or supplement may include but are not limited to those necessary to protect adjacent or nearby landowners from any deleterious effects from the full impact of any permitted uses, limitations more restrictive than those generally applying to the district regarding density, height, connection to central water and sewer systems, and stipulations requiring that development take place in accordance with a specific site plan. The city council may also stipulate that the development take place within a given period of time after which time public hearings will be initiated and the district returned to the original designation or such other district as determined appropriate by city council in accordance with the comprehensive plan. In cases where stipulations, restrictions or safeguards are attached, all representations of the owner or his agents at public hearings shall be deemed contractual and may be enforced by suit for injunction or other appropriate relief. All conditions, restrictions, stipulations and safeguards which are a condition to the granting of the change in zoning district shall be deemed contractual and may be enforced by suit for injunction or other appropriate relief.”

11. City Code Section 86-47(g) referenced herein specifically authorizes City Council to impose conditions of approval that are (1) “necessary to ensure compliance with the intent and purpose of the Comprehensive Plan; and (2) those necessary to protect adjacent or nearby landowners from any deleterious effects from the full impact of any permitted uses, limitations more restrictive than those generally applying to the district regarding density, height, connection to central water and sewer systems, and stipulations that development take place in accordance with a specific site plan.”

Notably, these broad Code provisions such as those that for the City Council to deem “... necessary to ensure compliance with the intent and purposes of the comprehensive plan” and “... to protect adjacent or nearby landowners from any deleterious effects from the full impact of any permitted uses,” lack discernible standards and criteria to guide City Council in its review and application of these standards to a rezoning application. These vague standards provide City Council complete discretion to act arbitrarily when approving or denying any rezoning application, irrespective of its merits. Neither the City Council’s motion for approval limiting

the density of the project to 7 units per acre, nor the discussion of that motion stated why the restriction was necessary to comply with the City's Comprehensive Plan or to protect any neighboring property owners or any other policy, rule or regulation. Nor did the City Council's motion or the discussion leading to its density reduction cite to any specific deleterious effects of the Project, or why the density restriction was necessary to protect nearby landowners, or how reducing the project by 39 units was a necessary condition to protect nearby landowners. (See Section 70.51(18)(e), (f), Florida Statutes (2008)). The City Council's decision to reduce the Project's density was speculative and arbitrary, and not based on any substantial, competent evidence contained in the record. Notably, without any basis in fact, as Councilman Moore suggested at the October 9, 2007 hearing, the City Council could have just as easily suggested that a density of 6 or 7 units may be appropriate.

12. The concern expressed regarding the traffic impacts of potential future annexations and development cannot reasonably be addressed by arbitrarily limiting the density of a Project when the evidence in the record demonstrates that the Project does not create traffic impacts that require improvements. An analysis of the data contained in the Concurrency Analysis indicated a reduction in density from 144 units to 105 would not create any discernible results, and that this would only result in a reduction of peak hour trips for the Project by 20 trips. (See Section 70.51(18)(e), (f), Florida Statutes (2008)).

13. There is no evidence in the record of any adverse environmental impacts or conditions related to the Property or the Project. (See Section 70.51(18)(c), (e), (f), Florida Statutes (2008)).

14. The Property owner developed the adjacent parcel to the west for a similar active adult community at a density of 8.9 units per acre prior to the purchase of the Property. According to the City Staff Report, the Property was annexed into the City on January 10 and June 27, 2006 and the City approved a Comprehensive Plan Amendment to designate the Property MDR for development up to 13 units per acre on July 18, 2006. The Petitioner purchased the Property on July 27 and September 22, 2006. Therefore, upon acquiring the Property, securing approval of a Comprehensive Plan amendment to MDR, and after approval of the Project at a density of 9.6 units per acre by City staff, the City Commission and the City Council on first reading, the Petitioner's reasonable expectations were that the density of the Project would not be arbitrarily reduced to 7 units per acre. (See Section 70.51(18)(e), Florida Statutes (2008)).

15. Contrary to the assertion in the City's Response that the "City Council discussed compatibility of the project with the existing and planned low and medium single and multi-family properties bordering East Venice Avenue," the transcript of the hearing reveals that the word "compatibility" was never articulated by any Council member. Rather, the Council expressed concern and speculated that there would be significant impacts if every parcel on Hatchett Creek Boulevard developed at the same density. (See Section 70.51(18)(e), (f), Florida Statutes (2008)).

16. The City's Response refers to "residential density and building height compatibility restrictions." However, no changes to the Project's building height were imposed based on the Petitioner's responses providing enlarged setbacks and the maintenance of existing trees as a natural buffer. Notably, no City Council member referred to the density reduction as a compatibility restriction. (See Section 70.51(18)(e), (f), Florida Statutes (2008)).

17. The City's Response included a table of area projects depicting approved density and "as built" density. The 5 projects noted by the City have "as built" densities ranging from 5.1 to 8.9 units per acre. At the hearing, the Petitioner submitted a table of 10 projects from the area, three of which were included in the 5 presented by the City, along with 7 additional projects having densities ranging from 8.3 to 32 units per acre. The most similar property to the subject Property is the adjacent Aston Gardens project located to the west of and contiguous to the Property, which has a density of 8.9 units per acre.

18. All of the remaining property on the north side of Hatchett Creek Boulevard east to Clermont Street is in Sarasota County, and Area 5 of the JPA/ILSBA, and is designated for development up to 13 units per acre. Notably, these lands located to the east are located in an area designated the South Venice Avenue Mixed Use Community Village in the JPA/ILSBA with Sarasota County, and future development will allow for a density up to 13 units per acre, with residential and mixed use buildings up to 4 stories. (See Section 70.51(18)(g), Florida Statutes (2008)).

19. The expressed concern about the traffic impacts from future development of that remaining property could possibly be addressed by employing a variety of alternatives such as reducing the density allowed on that remaining property; using impact fees from the Project and other future development to pay for any needed improvements; enforcing the City's concurrency level of service to halt or reduce additional development if warranted, rather than arbitrarily reducing the density on the subject Property by 39 units when no deleterious effects from Project traffic had been identified. As previously noted, City staff's planning report concludes in pertinent part that "[t]here are no outstanding technical issues that would prevent the [City] from taking action on the zoning map amendment." (See Section 70.51(18)(e), (f), Florida Statutes (2008)).

20. At the hearing on this matter, the Petitioner provided a Restricted Use Appraisal Report authored by appraiser Alan C. Plush, MAI, of HealthTrust, LLC, demonstrating that the reduction in density to 7 units per acre resulted in a negative economic impact of \$7,900,000 to the Property owner. Such a loss, resulting from the decision of the City Council speculating about future traffic impacts from undeveloped properties currently under the jurisdiction of Sarasota County, is unreasonable and unfairly burdens the owner's Property.

VII. PETITIONER'S SETTLEMENT PROPOSAL

The Petitioner has proposed as a compromise, a PUD Plan with a density of 7.9 units per acre, which totals 120 units with a maximum of 2 stories over parking. The PUD plan is a reasonable alternative to the RMF-3 density limitation as it would reduce the restraints on the use of the Property, while at the same time protect the public interest served by the conditions of approval. According to the table of project densities in the City's Response, the density of 7.9 units per acre is higher than 2 of the projects cited and lower than 3 of the projects identified, and is much lower than several of the projects in the area cited in Petitioner's Density Table provided at the hearing.

VIII. CONCLUSIONS OF THE SPECIAL MAGISTRATE

1. I conclude that the reduction in density for the Project from 9.6 units per acre to 7 units per acre is unreasonable as it resulted from a speculative decision by City Council concerning perceived traffic impacts of surrounding properties without any factual basis to support its decision. There is no evidence in the record to demonstrate why the restriction is necessary to the achievement of a public purpose. The City Council was presented with substantial, competent technical evidence from both City staff and the Petitioner demonstrating that the Project would not have any adverse impacts on the surrounding transportation network. Furthermore, notwithstanding there is no evidence in the record to contradict the Petitioner's Concurrency Analysis, the City Council obviously does not possess the expertise to evaluate technical traffic matters.

2. I conclude that the density reduction imposes an unfair burden on the Property based on the Restricted Use Appraisal Report submitted by the Petitioner.

3. As a quasi-judicial proceeding, the review of the City Council's decision is subject to strict scrutiny. Board of County Commissioners of Brevard County v. Snyder, 627 So. 2d 469, 476 (Fla. 1993). Because the Petitioner demonstrated that its application was consistent with the City's comprehensive plan and complied with all procedural requirements, the City then assumed the burden to demonstrate that its decision accomplished a legitimate public purpose and that it was supported by competent and substantial evidence in the record. Based on a review of the record, the City failed to meet this burden. Snyder, 627 So. 2d at 477.

IX. RECOMMENDATION

The City's decision to approve the Petitioner's rezoning with a reduction of the number of dwelling units from 144 to 105 was not based on any substantial competent evidence contained in the record at its public hearings on this matter. Furthermore, there is no evidence to demonstrate that a reduction of 39 units would achieve any legitimate public purpose. Accordingly, the City Council's decision did not comport with applicable law and as such, was unreasonable and imposed an unfair burden on the Property.

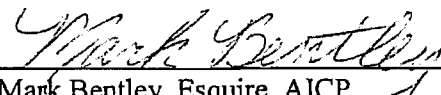
Section 70.51(19)(b), Florida Statutes (2008), provides that if the special magistrate finds that the development order in dispute is unreasonable or unfairly burdens the use of the owner's property, the special magistrate, with the owner's consent, may recommend certain alternatives that not only protect the public interest, but also allow for reduced restraints on the use of the Owner's property.

The Petitioner has proposed a settlement for City Council's consideration that would reduce the total units from 144 to 120; only 15 more units than approved by City Council. The modification from the Property's current RMF-3 zoning classification to the City's PUD classification as proposed by Petitioner that would allow for the imposition of certain terms and conditions, is a reasonable compromise. This proposal would allow a settlement that would address the respective concerns of the parties. The Petitioner's proposal would also partially mitigate the documented loss to the Property owner and possibly avoid time consuming, costly and unpredictable litigation between the parties to resolve this dispute.

Accordingly, when considered within the context of the initial rezoning request and the subsequent mediation proceeding, the Project as modified by the PUD Plan and conditions of approval, reflects a meaningful compromise. Therefore, I strongly encourage the members of the City Council and other interested parties to review the Petitioner's Request, the City's Response, the transcripts and evidence submitted into the record by the participants at the mediation proceedings. The transcripts include the testimony of both parties and their experts, along with other interested individuals.

I therefore recommend that the City Council approve the PUD Plan attached hereto as "Exhibit 7." along with the Petitioner's suggested rezoning conditions for the Property. Approval of the PUD Plan does not require further zoning hearings or other process. (See Section 70.51(21)(a), Florida Statutes (2008)); St. Johns/St. Augustine. Committee for Conservation & Recreations, Inc. v. City of St. Augustine, 909 So. 2d 575 (Fla. 5th Dist. App. 2005).

The foregoing Recommendation of the Special Magistrate has been submitted to the parties this 2nd day of March, 2009.



Mark Bentley, Esquire, AICP
Special Magistrate
Florida Bar No. 0724076

BRICKLEYMYER SMOLKER & BOLVES, P.A.

ATTORNEYS & COUNSELORS AT LAW

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November 20, 2007

STEVEN R. MEDENDORP
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MICHAEL R. ROCHA
DOUGLAS C. ROLAND
ROBERT K. SAVAGE*
RICHARD A. SCHLOSSER
DAVID SMOLKER
JON P. TASSO
MICHAEL J. WINER*
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*OF COUNSEL

TELEFACSIMILE AND FEDERAL EXPRESS

Honorable Ed Martin, Mayor
City of Venice
401 West Venice Avenue
Venice, FL 34285

**Re: Special Magistrate Proceeding Pursuant to Section 70.51, *Florida Statutes* –
Zoning Map Amendment No. 07-5RZ for the Village at Venice (the “Project”)**

Dear Mayor Martin:

My law firm has been retained by Discovery Village at Venice, LLC and the Reserve at Venice, LLC (“Owners”) with regard to the conditions of approval for the above-referenced zoning amendment, specifically the conditions attempting to limit the density of the Project to seven (7) dwelling units per acre. Pursuant to the Florida Land Use and Environmental Dispute Resolution Act, Section 70-51, *Florida Statutes* (2007):

“Any owner who believes that a development order either separately or in conjunction with other development orders, or an enforcement action of a government entity, is unreasonable or unfairly burdens the use of the owner’s real property, may apply within 30 days after receipt of the order or notice of the governmental action for relief under this section.”

§ 70.51(3), Fla. Stat. (2007). This letter is a formal request for relief pursuant to the Florida Land Use and Environmental Dispute Resolution Act. The following facts form the basis for this request:

A. The Property

The Owner’s property that is the subject of this request for relief is described in Exhibit A attached hereto (the “Property”). The Property was annexed into the City in three parcels on January 10, 2006 by Ordinance 2006-03, and on June 27, 2006 by Ordinances 2006-11 and 2006-33.

EXHIBIT

1

B. Comprehensive Land Use Plan

The City designated the Property as "Moderate Density Residential ("MDR") under its Comprehensive Land Use Plan on November 28, 2006 by Ordnances 2006-50 and 2006-54. The MDR designation is defined as follows:

"Moderate-Density Residential – uses range from over five units to thirteen units per acre and include small (5000 square foot) single family lots, older mobile home parks, duplexes, higher density cluster housing and town houses and new multi-family projects. As professional and business offices are generally compatible with multi-family uses, areas of moderate density with good access to collector or arterial streets may incorporate such uses. Transient uses such as hotel/motel and restaurants are also appropriate along arterial streets in this classification."

C. The Project

The Project as proposed by the Owners is an active adult community comprised of 144 dwelling units and related facilities. The concept plans approved by staff, the Planning Commission and City Council depict those 144 dwelling units in eight 2-story 12-plexes (2 living levels over one level of parking), two 3-story 12-plexes (3 living levels over one level of parking), and six 2-story 4-plexes.

The property is bordered to the north by the Venice Commons Shopping Center, to the west by the Aston Gardens PUD, to the south by Pelican Pointe and to the east by a 1 unit per 5 acre subdivision within unincorporated Sarasota County. The property to the east is identified as the South Venice Avenue Mixed Use Community Village with the area governed by the Joint Planning Area/Interlocal Service Boundary Agreement (JPA/ILSBA) with Sarasota County. Future development within the Village will allow for density up to 13 du/ac., with residential and mixed use building heights up to 4 stories. The proposed rezoning is consistent with the existing and anticipated future development in the area, and will serve to buffer the existing lower density residential development to the south and east from the higher intensity commercial development to the northwest.

D. City Staff Report on the Project

The City staff report and City of Venice Planning Commission Information Packet are attached as Exhibit B. City staff's finding include the following:

1. The Project as proposed at 144 units (9.6 units/acre) is consistent with Venice Comprehensive Plan, the 2006 Venice Strategic Plan and the City's land development regulations.
2. The report provided by the applicant demonstrates consistency of the request with housing, transportation, utilities and future land use policies adopted by the City for new growth and development.
3. The Project is not located within the JPA established by the City and County, but is adjacent to Area 5 of the JPA and meets the applicable JPA Compatibility Principles per Section 11 (I) of the JPA/ILSBA.
4. There are no jurisdictional wetlands or protected plant or animal species on the Property.
5. There are no outstanding technical issues that preclude approval of the Project.

Based on City staff's self-described thorough review of all applicable rules and regulations, staff's report stated as follows:

Staff Recommendation:

Based on the staff report and the findings of fact, staff recommends approval of the proposed zoning map amendment with the following conditions of approval:

Application for site and development plan shall include drawings of sufficient detail to show the architectural definitions of all structures, including full elevations view, roof design and materials, and material samples for wall texture, finish and color.

E. Planning Commission Recommendation

The City Planning Commission held a quasi-judicial public hearing on the Project on September 4, 2007. Excerpts from that meeting as provided by City staff to the City Council are included in the City Council agenda package attached as Exhibit C. At the conclusion of that hearing, the Planning Commission found that the request was consistent with the Comprehensive Plan and the affirmative Findings of Fact in the record and recommended that City Council approve the Project with the following stipulations stated in the proposed Ordinance No. 2007-39 attached hereto as Exhibit D.

- “1. Application for site and development plan shall include drawings of sufficient detail to show the architectural definitions for all structures, including full elevations view, roof design and materials, and material samples for wall texture, finish and color.
2. Maximum residential density of 9.6 units per acre.
3. Total dwelling units shall not exceed 144.
4. Maximum building height limited to three residential floors over one floor of parking.”

F. City Council Hearings

On October 9, 2007, City Council held a quasi-judicial public hearing to consider the recommendations of approval by City staff and the Planning Commission as embodied in the proposed Ordinance No. 2007-39 attached as Exhibit D, limiting the density to 9.6 units per acre (144 dwelling units). At the conclusion of the hearing, City Council approved the proposed ordinance attached as Exhibit D.

On October 23, 2007, City Council held a quasi-judicial public hearing to consider the proposed ordinance on second reading. At the conclusion of that hearing, City Council approved a revised version of Ordinance No. 2007-39, a copy of which is attached hereto as Exhibit E, requiring that the Project be developed consistent with the concept plans, but adding inconsistent conditions limiting the density to 7 units per acre and 105 dwelling units.

G. City Council's Condition to Limit Density to 7 Units Per Acre was Arbitrary, Capricious and Illegal

There is no competent, substantial evidence in the record to support the conditions to limit density to 7 units per acre. All of the evidence in the record supports the Project's density as proposed, and as approved by City Council on first reading. Therefore, the density condition is arbitrary, capricious, unreasonable, unduly burdens the Owner's property, violates established Florida law and is unenforceable.

H. Conclusion

Pursuant to Section 70.51(4), this request for relief must be forwarded to the Special Magistrate mutually agreed upon by the Owners and the City within ten days after the City receives

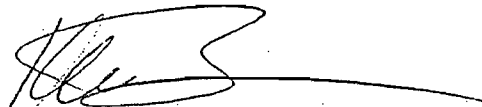
Mayor Ed Martin
November 20, 2007
Page 5

this request. The Owners look forward to resolving this matter expeditiously through this process, and propose the following three land use attorneys as acceptable Special Magistrates for this case: Mark Bentley, Steve Seibert or Carlos Alvarez. Please have your attorney confirm whether any of these attorneys are acceptable to the City.

Thank you for your attention to this matter. I look forward to working with you to resolve this dispute.

Yours truly,

BRICKLEMYER SMOLKER & BOLVES, P.A.



By: Keith W. Bricklemyer


KWB\mlb

Enclosures

cc: Thomas Harrison
Jeffrey Boone, Esq.

CERTIFICATE OF SERVICE

Pursuant to Section 70.51(6)(d), *Florida Statutes*, I hereby certify that a true and correct copy of the foregoing was furnished via Telefacsimile and Federal Express to Honorable Ed Martin, Mayor, City of Venice, 401 West Venice Avenue, Venice, FL 34285, and Robert C. Anderson, City Attorney for the City of Venice, of Hall & Anderson, P.A., 1314 East Venice Avenue, Suite E, Venice, FL 34285, on this 20th day of November, 2007.


Keith W. Bricklemyer

EXHIBIT

tabbles

A

Legal Description

LOT 3, KENT ACRES NO. 1, AS RECORDED IN PLAT BOOK 21, PAGES 26 AND 26A, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA.

AND

LOT 5, KENT ACRES NO. 1, AS RECORDED IN PLAT BOOK 21, PAGES 26 AND 26A, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA.

AND

LOT 7, KENT ACRES NO. 1, AS RECORDED IN PLAT BOOK 21, PAGES 26 AND 26A, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA.

LESS THE FOLLOWING DESCRIBED LANDS:

BEGIN AT THE NORTHEAST CORNER OF SAID LOT 7, KENT ACRES NO. 1; THENCE S.00°48'44"E., ALONG THE EAST LINE OF SAID LOT 7, A DISTANCE OF 98.82 FEET; THENCE S.44°34'42"W., LEAVING SAID EAST LINE OF LOT 7, A DISTANCE OF 185.45 FEET; THENCE N.45°25'18"W., A DISTANCE OF 98.25 FEET; THENCE N.00°54'33"W., A DISTANCE OF 160.46 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 7; THENCE N.89°34'18"E., A DISTANCE OF 201.30 FEET TO THE POINT OF BEGINNING.

City of Venice, Florida
Response to the Request for Relief with the Special Magistrate
December 4, 2007

Consistent with the provisions of the Land Use and Environmental Dispute Resolution (Chapter 70.51, Florida Statutes), the City offers the following response to the Special Magistrate regarding specification of land use limitations imposed by the Venice City Council and included in the approval of Rezoning Ordinance No. 2007-39 for Villages at Venice, Zoning Map Amendment No. 07-5RZ.

I. Petition Information

Request: The applicant requested a Zoning Map Amendment from Sarasota County "Open Use Estate-1 (OUE-1)" to the City of Venice "Residential, Multi-Family-3 (RMF-3)" zoning district. The rezoning application is required to fulfill a condition of the Pre-Annexation Agreement that the subject property fall under the regulatory control of the City's land development standards.

General Location: The property is located on the north side of Hatchett Creek Blvd., just east of Pinebrook Road adjacent to Aston Gardens.

Property Size: 15 ± acres

Prior Land Use Approvals:

Petition Type	File/Ordinance Number	Approval Date
Annexation	05-7AN / Ord. No. 2006-03	January 10, 2006
	06-1AN / Ord. No. 2006-11	June 27, 2006
	06-2AN / Ord. No. 2006-33	June 27, 2006
Comprehensive Plan	06-4CP / Ord. No. 2006-50 06-8CP / Ord. No. 2006-54	July 18, 2006

II. Land Use

A. Existing Land Use: Single Family Residential.

B. Future Land Use Map Designation: Moderate Density Residential.

The "Moderate Density Residential" land use designation is defined in the Venice Comprehensive Plan as:

Moderate-Density Residential - uses range from over five units to thirteen units per acre and include small (5000 square foot) single family lots, older mobile home parks, duplexes, higher density cluster housing and town houses and new multi-family projects. As professional and business offices are generally compatible with multi-family uses, areas of moderate density with good access to collector or arterial streets may incorporate such uses. Transient uses such as hotel/motel and restaurants are also appropriate along arterial streets in this classification.

C. Zoning Atlas Map Designation:

From: Sarasota County "OUE-1"

To: City of Venice "RMF-3"

The "Residential, Multi-Family" zoning map designation is defined in the Venice Zoning Code as:

Section 86-82. RMF - Residential, Multiple-Family District.

(a) Generally; intent. The RMF districts are intended to be moderate to medium density districts, with emphasis on multiple-family use. RMF districts are situated so that they are well served by public and commercial services and have convenient access to thoroughfares and collector streets. Permitted uses are the same in all districts, but uses permissible by special exception vary, with the more dense residential uses providing for more special exceptions.

(b) Permitted principal uses and structures. Permitted principal uses and structures in the RMF district are:

(1) Multiple-family dwellings.

(2) Patio houses.

(3) Two-family dwellings.

(4) Townhouses or cluster houses.

(5) Houses of worship (except temporary revival establishments), provided that the minimum parcel size shall be two acres.

(6) Community residential homes.

(7) Bed and breakfast inn with not more than ten sleeping rooms for rent, provided:

a. Outdoor activity areas shall be buffered from adjacent residential property.

b. All rooms shall have access via indoor halls. For multiple-family developments, townhouses or cluster housing developments, site plan approval is required.

(8) One single-family dwelling per lot.

(9) Public elementary and high schools with conventional academic curriculums, and private elementary and high schools with conventional academic curriculums similar to those in public elementary and high schools.

- (10) Parks, playgrounds, playfields and city buildings in keeping with the character and requirements of the district, and public libraries.*
- (11) Essential services.*
- (12) Existing railroad rights-of-way.*

III. Authority of City to Establish Conditions of Rezoning

Specifically, Section 86-47(g)(1) of the Venice Code of Ordinances, authorizes the City Council when considering an amendment to the zoning land use map to grant or deny the proposed rezoning, and may make the granting of the approval conditional upon such restrictions, stipulations and safeguards as it reasonably deems necessary to ensure the intent and purposes of the Comprehensive Plan. In addition, the Code provides the City Council with the ability to include land use limitations which may be more restrictive than those generally applying to the district regarding residential density and building height to ensure compatibility of proposed land uses and building structures within the predominant residential neighborhood. The zoning provisions referenced in the discussion are provided in whole below. Pertinent zoning provisions have been underlined.

Section 86-47(g) Restrictions, stipulations and safeguards.

(1) In accordance with Sarasota County Ordinance No. 76-51, section 4.c as amended, the planning commission may recommend that a petition to amend or supplement a district be approved subject to stipulations limiting the use of the property. The city council, after receiving the recommendation from the planning commission on a request to amend or supplement a district, may grant or deny such amendment or supplement and may make the granting conditional upon such restrictions, stipulations and safeguards as it may deem necessary to ensure compliance with the intent and purposes of the comprehensive plan.

(2) Restrictions, stipulations and safeguards attached to an amendment or supplement may include but are not limited to those necessary to protect adjacent or nearby landowners from any deleterious effects from the full impact of any permitted uses, limitations more restrictive than those generally applying to the district regarding density, height, connection to central water and sewer systems, and stipulations requiring that development take place in accordance with a specific site plan. The city council may also stipulate that the development take place within a given period of time after which time public hearings will be initiated and the district returned to the original designation or such other district as determined appropriate by city council in accordance with the comprehensive plan. In cases where stipulations, restrictions or safeguards are attached, all representations of the owner or his agents at public hearings shall be deemed contractual and may be enforced by suit for injunction or other appropriate relief. All conditions, restrictions, stipulations and safeguards which are a condition to the granting of the change in zoning district shall be deemed contractual and may be enforced by suit for injunction or other appropriate relief.

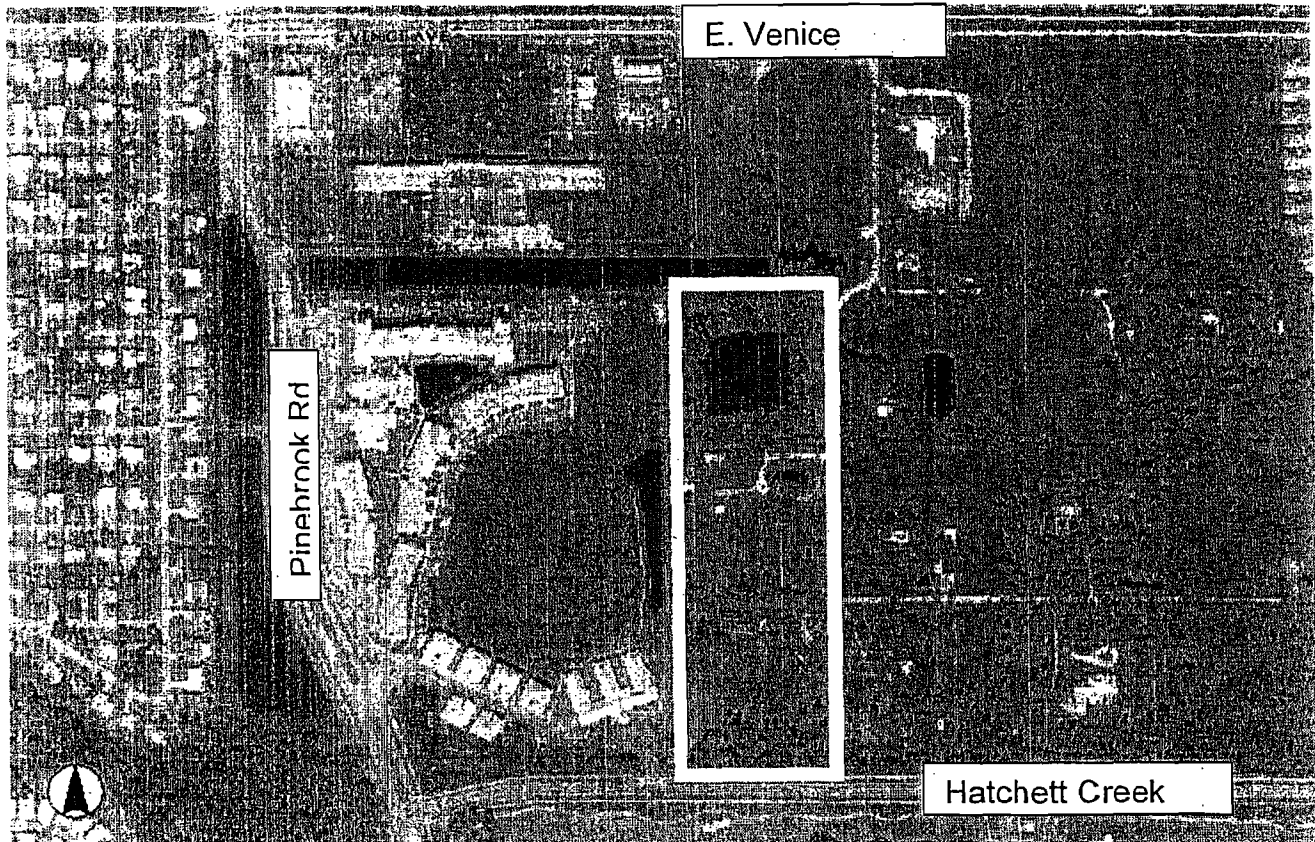
IV. ZONING ANALYSIS

A. Request:

The applicant requested a Zoning Map Amendment from the Sarasota County "Open Use Estate-1 (OUE-1)" zoning district to the City of Venice "Residential, Multi-Family (RMF-3)" zoning district. Located on the north side of Hatchett Creek Boulevard, and adjacent to Aston Gardens, the 15-acre parcel was annexed into the City in 2006. The applicant is seeking the RMF-3 zoning classification to permit the future consideration of a multi-family development project known as "The Village at Venice". A companion site and development plan (No. 07-12SP) has been submitted by the applicant. The project, as depicted in the submitted rezoning and site and development plan renderings, will include a mix of multi-family buildings from two to four stories in height.

A. Existing Conditions: The subject property is currently being utilized as a single-family home with the remaining lands undeveloped. The 15-acre parcel was annexed into the City in 2006. The property lies between an existing low density single-family golf course community (Pelican Pointe) to the south, and a commercial and medium density multi-family activity center located to the north. Other nearby land use activities include a house of worship, neighborhood commercial center, and several multi-family condominium projects.

Aerial



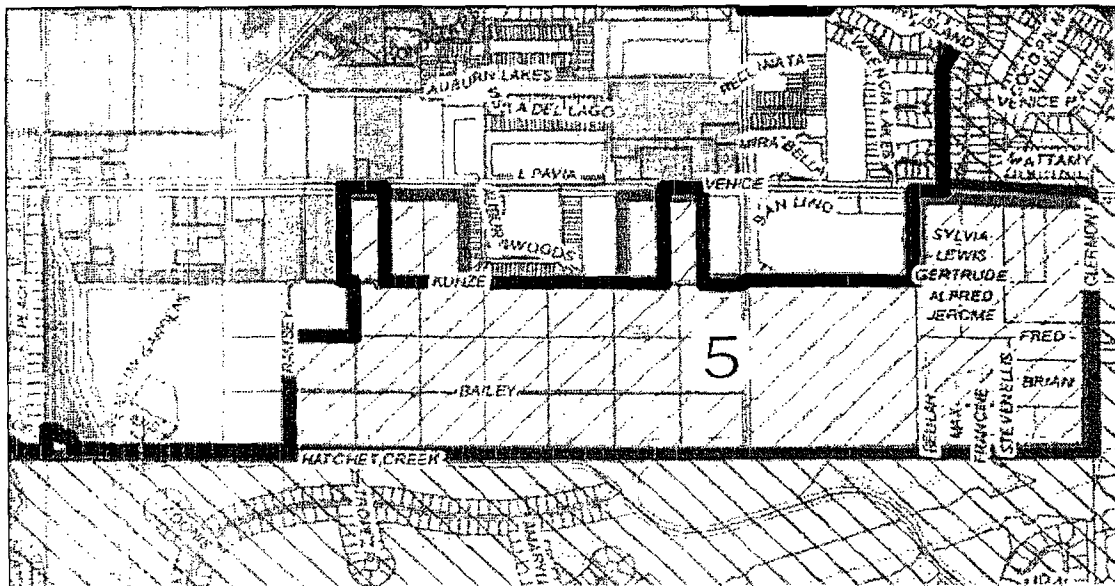
Adjacent Land Uses

Regulatory Standards	North	West	South	East
Existing Land Uses	Shopping Center (Venice Commons)	Institutional (Aston Gardens)	Single-Family (Pelican Point)	Single-Family
Future Land Use Map Designation	Commercial	Moderate Density Residential (8-13 DU/Acres)	County Moderate Density Residential (2-5 DU/Acres)	County Medium Density Residential (5-9 DU/Acres)
Zoning Map Designation	"CG/VG"	"PUD"	County "RSF-3/ PUD"	County "OUE-1"
JPA Land Use Designation	NA	NA	NA	Area 5 — Mid Range Intensity Residential (6-13DU/AC)

B. Future Land Use:

The subject property went through a large-scale Comprehensive Plan amendment to the Future Land Use Map for a Moderate Density Residential designation in 2006. The Moderate Density Residential future land use designation provides for the mixed-use of single-family, mobile home parks, duplexes, higher density cluster housing and town houses, multi-family projects and professional and business offices. The land use designation provides for residential densities between five and thirteen dwelling units per acre. The approved density of seven dwelling units per acre is consistent with the Moderate Density Residential designation.

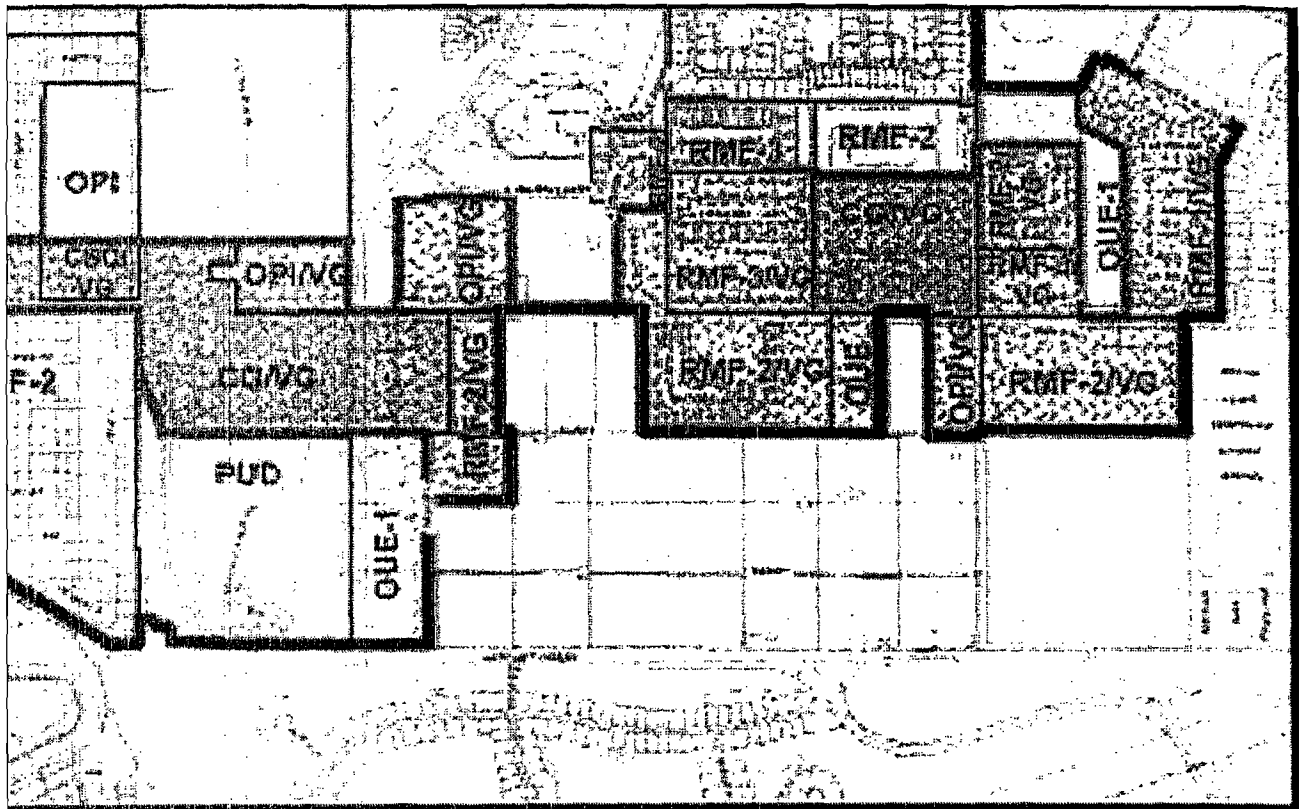
Future Land Use Map



C. Zoning:

The subject property lies within a low and medium density residential area with Residential, Multi-Family, Planned Unit Development, Commercial General and Office Professional zoning districts. Unincorporated lands of Sarasota County are designated Open Use, Estate (OUE) and are permitted for one dwelling unit per five acres. The applicant is seeking the RMF-3 zoning classification to permit the future consideration of a multi-family development project known as "The Village at Venice". As a condition of the pre-annexation agreement between the property owner and City of Venice, the subject property is required to undergo rezoning to a Venice zoning classification to ensure future development occurs consistent with Venice land use and regulatory standards.

Zoning Map



The RMF-3 zoning district provides for a maximum residential density of up to 13 dwelling units per acre and a maximum building height of 45 feet. This multi-family zoning district will implement the "Moderate Density Residential" future land use map designation. The approved density of seven dwelling units per acre is consistent with the RMF-3 zoning district classification.

The Zoning Code provides the City Council with the ability to include land use limitations which may be more restrictive than those generally applying to the district regarding residential density and building height to ensure compatibility of proposed land uses and building structures within the predominant residential neighborhood. City Council discussed compatibility of the project with the existing and planned low and medium single- and multi-family properties bordering East Venice Avenue, and a proposed grid system dispersing traffic to Pinebrook Road, Hatchett Creek Boulevard, East Venice Avenue, and Auburn Road.

City Council reviewed the future land use map depicting vehicular interconnectivity, zoning map and residential density, and discussed overall density and traffic in the area. City Council was especially concerned with compatibility of new development of the major block lying between Pinebrook Road and Auburn Road, and bordered between the higher intensity/density development along East Venice Avenue to the north, and the low intensity, single-family neighborhood to the south along Hatchett Creek Boulevard. When viewed in context, the table provided on page 7 of the response report makes clear that overall residential density of adjacent and nearby multi-family developments which have been built in the past six years average about 7.3 dwelling units per acre. In no instances are any of the multi-family development projects built out to maximum residential density in either the RMF-2 (up to 9 dwelling units per acre) or RMF-3 (up to 13 dwelling units per acre) zoning districts. The development pattern includes higher density projects commonly found at the west end the block of Pinebrook Road and the east end of the block at Auburn Road. Lower density developments are more commonly found within the middle of the block.

Specifically, Section 86-47(g)(1) of the Venice Code of Ordinance authorizes the Venice City Council to grant or deny the proposed rezoning and may make the granting of the approval conditional upon such restrictions, stipulations and safeguards as it reasonably deems necessary to ensure consistency with the intent and purposes of the Comprehensive Plan. The compatibility restrictions placed on the Village at Venice rezoning petition are appropriate and in keeping with past practices of the City to ensure that moderate density residential developments provide a reasonable transition between the existing and planned higher intensity/density uses located along East Venice Avenue with the low density uses along Hatchett Creek roadway. The residential density and building height compatibility restrictions provide an appropriate transition between the higher intensity Aston Gardens development located to the west, and lower density zoning districts located to the east of the subject property. Also of note, the Aston Gardens development is a Planned Unit Development (PUD) zoning district and master planned community which required at rezoning approval that the bulk of the residential density and larger building structures within the development be located away from the subject property and toward the higher intensity development located to the north-west. A jurisdictional wetland and lower density building structures from the Aston Gardens project share a common border with the subject property.

Based upon these residential density and land use compatibility considerations, comprehensive plan and zoning code policies and standards, public input from adjacent property owners, the Venice City Council approved and adopted Ordinance No. 2007-39 with a density limitation of seven dwelling units per acre.

**“EXHIBIT 3”
PETITIONER’S PUD PLAN**

.....

**EACH COUNCIL MEMBER HAS RECEIVED A
COPY**

.....

**AND
A COPY IS AVAILABLE IN THE CLERK’S OFFICE
FOR PUBLIC REVIEW**

Excerpts from the October 9 and 23, 2007 City Council Hearings

"... looks very good. I really want to complement you on [your plan and elevations], because I think you deserve to be complemented." John Moore, Oct. 9, 2007 hearing at 2:11.

"To be honest with you one of the things that concerns me is you are asking for 144 condominium units on this 15 acre parcel and basically there are seven more 15 acre parcels if you put them together going to east, total of twenty-four 5 acre parcels along Hatchett Creek . . . not in the City yet, but I would have to be crazy not to anticipate they may very well come into the City . . . [J]ust hypothetical speaking, if every one of those had 144 units on there we would be looking at a 1,100 condominium units from this development on down to the City limits. Several years ago, to the north of that little aerial, you can see . . . I think it was the property to the east of that, we turned down a request for a rezoning that would have allowed 9 units per acre . . . [T]hey came back eventually with I think 7, maybe 6 or 7 units per acre and a redesign that I'd like to think was better than what we were originally proposed. So I have to tell you that it does concern me a great deal when I see the density of this particular project, and realize what may be coming in the future all the way down Hatchett Creek Road in terms of the demand on services and traffic." John Moore, Oct. 9, 2007 hearing at 2:12-15.

"... I can look at this project, your project, in a vacuum and say most things about it are good. When I look at it in the larger scale of things in the area and I see trouble down the road because of over development in the other areas. Your project doesn't have to be 144, it could be 7 units per acre or 8 units per acre . . . When I extrapolate out over the rest of those 5 acre lots . . . that is a lot of driveways in and out and a lot of left turns and right runs and traffic." John Moore, Oct. 9, 2007 hearing at 2:18.

"With 144 units there . . . when you go on Hatchett Creek Road to Pinebrook . . . any time at 5:00 . . . A concern about the amount of traffic." Vicki Taylor, Oct. 9, 2007 hearing at 2:27.

"When this came up the last time I voted against it, on the grounds primarily of the density of the complex, but also on the traffic that would be generated. And not only the density and traffic now, but the density and the traffic we can foresee coming as more and more of these 5 acre parcels are annexed into the City of Venice." John Moore, Oct. 23, 2007 hearing at 2:05.

John Moore indicated other project densities: Fiore we rejected at 9, down to 7. Auburn Woods is 5.7 units per acre. San Lino has a density of 6.6 units per acre. "We have done a density far less than the density in this particular development." "Hatchet creek is only a two lane road."

"The density has got to come down to a maximum of 7 in my mind to vote for it." John Moore, Oct. 23, 2007 hearing at 2:07-10.

- We rebutted that we have two access points and the above projects are surrounded by residential where this is a transition from high density commercial. Hatchett Creek is a collector road. This is a senior living community; different type of project.

"I just like to clarify. I know that Aston Gardens is a higher residential, but it is a retirement community that has an independent living apartments and right to the west of this property is assisted living which the majority of those residents I'm assuming don't drive so it's not like a residential property with 100 plus homes that each have maybe two car members of it. And the independent living also has a bus system that transports residents to many activities that don't add cars onto the road. And that's still my concern too, I am not so frustrated by the density per se, I mean I would like it much less, but just the added road traffic and what is going to happen there in the future until we can determine what we need to do." Vicki Taylor (who lives on Pinebrook), Oct. 23, 2007 hearing at 2:15.

- We rebutted that this is a retirement community, movie theater and eating facilities on site

"I'd like to make a motion that ordinance 2007-39 be approved and adopted with the following conditions: That, if you look at the ordinance that was originally adopted, that condition number 2 maximum residential density, be 7 units per acre, condition number 3, total dwelling units shall not exceed 105 units, and that the height of all buildings shall be limited to the concept plans and illustrative plan views presented by the applicant at the first hearing, and in no event shall building height exceed 55 feet for the two four story buildings, and finally that the development of the subject property shall be designed consistent with and limited to design and intensity of development depicted on concept plan dated April 15, 2007." John Moore, Oct. 23, 2007 hearing at 2:21-23.

Verbatim from October 23, 2007 City Council Meeting Village at Venice Rezoning Petition

Mayor Hammett: Ordinance No. 2007-39, is also a quasi-judicial procedure, would the clerk read the ordinance by title only.

Ms. Stelzer: Ordinance No. 2007-39, an ordinance amending the official zoning atlas of the City of Venice, Florida relating to the Village at Venice rezoning petition No. 075RZ for the rezoning of the following described property, from Sarasota County Open Use Estate OUE-1 to City of Venice Residential Multiple Family, RMF-3 and providing an effective date.

Mr. Tacy: Mr. Mayor.

Mayor Hammett: Mr. Tacy.

Mr. Tacy: I move that Ordinance No. 2007-39 be placed on final reading.

Mr. Woods: Second.

Mayor Hammett: Thank you, all in favor say Aye.

Council: AYE

Mayor Hammett: All opposed, motion passed unanimously. Open the public hearing, would the city attorney question council concerning ex-parte communications.

Mr. Anderson: Has any member of the Venice City Council participated in any ex-parte communications concerning Ordinance No. 2007-39, or the underlying rezoning petition?

Council: I have not, no.

Mr. Simmonds: You said anyone, I assume we can discuss it with you or the city manager.

Mr. Anderson: Correct.

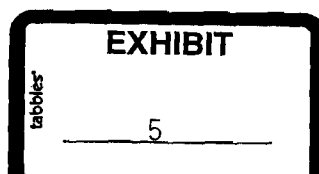
Mr. Simmonds: Thank you.

Mayor Hammett: Ok. Anyone that wishes to give testimony would they stand to be sworn in by the city clerk.

Ms. Stelzer: Can I first tell you that I have some written communications?

Mayor Hammett: I meant to say that.

Ms. Stelzer: We've received eight emails and one letter that's been copied to all of council. I did receive another email here while I was sitting here this afternoon, which has not been provided as part of the material.



Mayor Hammett: Ok do we need to have copies of that going forward?

Mr. Anderson: Yes, you should make copies and distribute them.

Mr. Black: They were at the council dais.

Mayor Hammett: No, she said she got one while she was sitting there.

Mr. Anderson: She said she just got one. Unless everybody's been sent that same email, that you can access it at this time.

Ms. Stelzer: It was only copied to me, from

Mr. Anderson: Is it long or short?

Ms. Stelzer: It's very short

Mr. Anderson: You can read it into the record.

Ms. Stelzer: Uh, no, I take that back, it's, it's pretty lengthy.

Mr. Anderson: Then you should print it out and distribute the copies.

Mr. Black: Can they read it at the dais?

Mr. Anderson: Yeah.

Ms. Stelzer: you want it, you want it..

Mr. Tacy: Why don't you just email it.

Ms. Stelzer: You want me to just read it, it'd be just as fast to do that. As a real estate broker I have made a living selling new homes for many years, I still must protest building more new homes. We currently have a glut of homes both new and resale on the market, why add to the supply when we have so little demand. We have a severe crisis in the real estate market, we must restrain construction if we are going to get of this depressed market. This down turn in real estate is causing a recession across the country. The ripple effect is obvious to anyone who is paying attention. Allowing three and four story multi-family building across the street from a very nice single family neighborhood is a stab in the back to the residents who now live along Hatchett Creek. How do you justify rezoning from one unit per five acres to multi-family high rise? The worse case scenario would be to dump all this traffic onto Hatchett Creek Road. Can you imagine the grid lock this would create on Hatchett Creek and Pinebrook to Venice Avenue? It is already too difficult to make a left turn from the shopping center to Pinebrook. In season this would be impossible. Have you even considered emergency traffic trying to aid our residents? Venice was recently designated as one of the top ten places to retire, do you know

why? Everyone likes our small town charm. Why does it seem our Venice City Council is out to destroy the very reason most of us selected Venice as our new hometown. With projects such as this and the downtown towers, you are considering, you are well on your way to making Venice just another over crowded, over built, traffic infested gulf coast city. Why do the developers and builders interest always come before the citizens you are sworn to represent? Do the right thing. Sincerely Gerald E. Steinemen.

Mayor Hammett: Ok, thank you.

Mr. Tacy: No address?

Ms. Stelzer: I don't believe so, no.

Mayor Hammett: Ok, thank you. Anyone to be sworn in?

Ms. Stelzer: Please stand. Mike are you also, no. Do you, please raise your right hand. Do you swear or affirm that the testimony you will give before this board shall be truthful?

Inaudible noise

Mayor Hammett: What was that?

Ms. Stelzer: John

Mayor Hammett: Oh, ok, anyone from the public who wishes to come forward to speak for or against this ordinance, uh please sign the chart that's there if you would please, and state your name for the record.

Ron Konst: Uh my name is Ron Konst, I live on 1150 Tuscany across from the complex that's uh about to be built apparently. I would like to say that relative to emails. I know that our complex was sending emails to the planning commission and not to here. I know there were several emails that uh were directed there. There is extreme concern I can tell you in Pelican Point about this complex. Uh primarily for the traffic. We are, we are locked in uh by Hatchett Creek Road, uh our concern is the grid lock in getting out, of course that's a concern everyone would have, but those of you who travel Pinebrook could understand the chaos that might occur if a big fire engine or an ambulance trying to get to one of us whose having a heart attack, starts coming down Pinebrook and heading toward us with all the extra traffic that's coming. There are places on Pinebrook, you can't even get off the road out of the way of an emergency vehic, excuse me, vehicle if you wanted to. You could not get out of the way, and there is, there, it's a single lane road. There's just no place to go. I think that if, if this is a done deal, if this complex is, is gotta go in. If we could get a stipulation that all the traffic from this complex will empty out onto uh Venice Avenue, not empty out onto Hatchett Creek Road, it would be ah ah solution that would be a lot more livable for us. We see chaos and quite frankly I don't see who it benefits ta have a complex that empties out on Hatchett Creek, my understanding that the proposal is to have one entrance into this complex and that that entrance would be on Hatchett Creek Road. So, you know from our standpoint it certainly doesn't benefit Pelican Pointe

residents, its not going to benefit the people who are going to live at the Village of Venice, its very inconvenient for them ta ta be put into the same traffic mess that we're going to have. Also, uh it's inconvenient from shopping there's not shopping on Hatchett on Hatchett Creek there's lots of shopping on Venice. I think if you took a poll of the merchants on Venice Avenue, the banks, the gas stations, uh the Publix, the new complex that's gonna be built at Jacaranda and Venice Avenue, they wouldn't want this traffic going out this way either. If we could just get a stipulation that all the traffic will be directed out toward Venice Avenue, I think we would have a solution that maybe we could all live with.

Mayor Hammett: Ok, thank you.

Ms. Stelzer: Mayor I just wanted to clarify that all the emails that were received were from the planning department, so you did get all of those that were submitted to the planning department.

Mayor Hammett: right, this property doesn't touch Venice Avenue does it?

Mr. Black: No

Mayor Hammett: so, exiting to Venice Avenue is not an alternative.

Mr. Black: Well their, their plan actually shows a northern entrance through the Church of the Nazarene if you look at the site plan, obviously this is a rezoning so you don't have the benefit at this point although its been presented. Um Mr. Moore actually has asked them, work some material with them that addresses that, but our joint planning agreement with Sarasota County provides for and requires that we create grid systems through here to interconnect between Venice Avenue and Hatchett Creek to disburse the traffic and not have single ways in and out, and that reflects the historical grid pattern ahh from East Gate on the island and other components. Its really no different than what the city has done on the north side of Venice Avenue to require Auburn Lakes Drive to interconnect between Auburn Road and Capri Isles. Ahh and that is intended to disburse the traffic and not funnel traffic onto major arteries. To allow for neighborhood disbursal of those traffic volumes. And that is one of the requirements of the joint planning agreement provides for the potential of three access points. Uh one in the vicinity of this project and then two between here and Auburn Road, originally both city staff and county staff had desired to extend Auburn Road, ah directly through to Hatchett Creek because the result of wetlands and other environmental features, that's not feasible at this time, uh so you are looking and, and will have with the comprehensive plan and joint planning agreement a grid system to disburse that traffic to Pinebrook, Hatchett Creek, Venice Avenue and Auburn Roads ultimately as this area develops. That is consistent with the urban design new traditional design and support of Sarasota County transportation and planning staff and city planning staff.

Mayor Hammett: Right, ok, anyone else. Did someone else stand up?

Ms. Stelzer: The applicant.

Mr. Black: The applicant.

Mayor Hammett: Ok.

Steve Boone: Steve Boone on behalf of Discovery Village, the applicant, we ah just in case there are any questions that ya'll had, or if there is something that we ah needed to rebut, we um stood up to speak. We think ya'll heard it all last time, certainly we're here. Tom Harris and Debbie Cross from Discovery Village are also here with me to answer any questions that ya'll might have, uh addressing issues or concerns that you might have.

Mayor Hammett: Mr. Simmonds

Mr. Simmonds: Assuming its approved when would they start construction?

Mr. Boone: When would you start construction, what's your time line as far as..... July or August.

Mayor Hammett: Mr. Moore, Judge Moore.

Mr. Moore: I don't know if this is out of order, but I've got, we've got you know council here for the petitioner, I do have some questions that weren't brought up last time, I don't mind bringing up before the ordinance is, there's a motion to approve it. I mean if that's appropriate, but...

Mayor Hammett: Lori, help us on process

Mr. Anderson: Do you want them to be part of the record upon which the decision is based?

Mr. Moore: Oh I just wanted to give them the opportunity because I'm gonna bring up things that weren't brought up before or,

Mr. Anderson: well then you should do it as part of the hearing.

Mr. Moore: so I should do it now then.

Mr. Anderson: Yes.

Mr. Moore: I want to be fair to them, obviously. Ok.

Mayor Hammett: Ok.

Mr. Moore: Want me to go ahead?

Mayor Hammett: Yes please

Mr. Moore: Ok, I need a little assistance on the overhead here. I don't know if you want to take that and then I want to use uh this one here, like that, that's first. Um when this came up the last

time I voted against it um on the grounds primarily of ah the density of the complex, but also on the, on the traffic that will be generated, and not only the density and traffic um now, but the density and the traffic which we can foresee coming as more and more of these five acre parchels are annexed into the City of Venice. Um you might have to help me Mr. Black if you can if you can just identify this parchel on, this is a in the area of traffic, we didn't have this uh diagram at the last hearing. I asked Mr. Black about it. He produced it, basically this is an amendment to our um I guess our land use plan that was done as a result of the JPA, and what it shows the uh, I guess it's the planned, uh roads that will be going in and out of here. One of the things that I was concerned about is we've got 24 five acre parchels, or basically eight stacks of 15 acre parchels, and I was concerned that we could have as many as five or six of them with entrances uh, onto Hatchett Creek Road. But this would indicate that at the most you would have three entrances onto Hatchett Creek Road, rather than five. Well that certainly reduces the number of access points onto Hatchett Creek Road, but ultimately as this is developed out, I still have concerns that while you have fewer entrances, you're gonna have more traffic using each of the three entrances. Again, this is down the road, this is ultimately. So that concerned me, but I wanted to make sure that this diagram was in the record and that everybody was aware of it. Ok.

Mayor Hammett: that's, that's the one I'm carrying around.

Mr. Moore: and you have one. I think, yeah I think he distributed, the other, the other diagram basically shows, if I can get myself oriented, ok, yeah there we go. Um ok Mr. Black has put his finger, this is the zoning map. He's put his finger near the, near the unit. Now this project is 15 acres with a proposal for 144 units or a density of 9.6 units per acre. Um, I would like to go up to the, yeah right about there. Just above Mr. Black's finger is a five acre parchel which is east of Auburn Woods development. That parchel came before us as the development called Fiore De Vienzo or Vienza back in 2003 or 4 with nine units per acre. They wanted to build 45 units on five acres that was nine units per acre. We rejected that development in part because of the density. They eventually came back and we approved it with 7.6 units per acre. As it turns out, it hasn't been developed, I think the property has been sold. Adjacent to that is Auburn Woods, which I believe was developed by Mr. Miller and Waterford. According to the planning department, Auburn Woods has a density of 5.07 units per acre and that's somewhere in the neighborhood of 15 - 20 acres in there. On the other side of um Fiore De Vienza is what's known as San Lino, which is developed. Again by Mr. Miller, and San Lino is on 20 acres, it has a density of 6.6 units per acre. Um so I just wanted to show you what we have approved on Venice Avenue, and I would point out, Venice Avenue is a four lane divide road, Hatchett Creek Road is a two lane road. I don't know of any plans to en, widen it in any way. And we have done a density far less than the density of this particular development. Just to give you some other comparisons, we're in litigation with the Sarasota County over Bella Citta, uh because it's adjacent to county property, which is, you know one unit per five acres and the density of Bella Citta is 3.89 units per acre and we're in litigation over that. The bridges, which I know is coming to us eventually with under, its is probably under a CMU designation, but I think we're all anticipating a much higher density out there, the Bridges right now has a density of 6.5 units per acre. This is 9.6 it's still too dense for me, in this location on this road on Hatchett Creek Road. So, I'm gonna be, I don't want to reject this project but the density's gotta come down to a maximum of seven in my mind, to vote for it, and that's 105 units at that. And uh I just wanted

to let you know that, and I wanted the petitioner to have that information and be able to comment on it as well. Because I did not think it was fair to close the public hearing, OK?

Mayor Hammett: No, that's great, anyone else

Mr. Boone: Thank you and um, Mr. Black could I have that, the last one you had up, back up. Um thing I would like to ah comment on that if, if there are other comments folks would like to make, ah before I do that's fine too, or if you want me to go ahead and comment on um on those things. Couple things to a, to point out, um the, the ah properties Judge Moore is referring to, I believe that all of them only have one road access point. Meaning there's only one roadway that you can get in and out of to that property. I believe the, the Auburn Woods uh the one that hasn't been developed, the San Lino uh they don't have a front and a back entrance if you will. It's ah important, its important ta I think to point out here its important to point out that with this property as it's been discussed, there will be entry two entry points onto Hatchett Creek Blvd, but there will also be an entry point onto Venice Avenue. So this will actually have not only two entry points onto the Hatchett Creek Blvd. roadway but a back entry if you will onto Venice Avenue. I think that is a very important and significant distinction. Secondly and perhaps even greater importance, is that these properties are bordered, the ones that Judge Moore referred to, have residential surrounding them. The property we have here has a commercial shopping center uh a high density commercial uh, uh strip shopping center uh office park uh office condominium buildings here on this end uh banks, doctors offices and so forth. So it is, it abuts a high density commercial development. Also, and I'm gonna have to profess some degree of ignorance here, what is the density of Aston Gardens? Does anybody, ya'll.

Mayor Hammett: Tom, do you know?

Unknown speaker: Its 340 units.

Mr. Boone: 340, my, my guess is and I would stand to be corrected on this, but I would guess that the Aston Gardens density is at least 9.7 if not more in the ten plus range. Tom, do you happen to know? Unintelligible... Ok, but I, I would also suggest to you and certainly I would stand to be corrected if I am in error, but that the bordering properties A on the north you have commercial intense use and to the west you have a higher density residential use. And I guess the uh last thing to point out is that this is a unique um it is a different type of project than the typical single family residential or multi-family residential uh the San Lino, the Auburn Woods, this project as ya'll heard last time, is specifically addressed to the 55 plus is a specifically designed senior living community. I think the a, the architect designer was here last time and explained that, that this is a different project. So I think if you put those things together, uh along with the fact that the um, density allowable in the zoning designation that we're requesting the 9.6 is almost smack dab in the middle of the allowable densities. So we're not pushing the upper limits of the envelope at 13 or 14. So I think, take all those things together, this is a different area, it is a different project than the ones that Judge Moore is referring to. Ah front door, back door entry way, you have two different relief points on two different major roads. Hatchett Creek being a collector road ah it is not a quiet residential street, it is a collector road, it was designed that way and designated that way, and also connecting uh on to Venice Avenue to the north.

Mr. Black: Mr. Mayor if I could just correct one item, the second entry way I believe is an emergency access, fire access from Hatchett Creek, not full access.

Mr. Boone: Thank you,

Mayor Hammett: That, that, Yeah, that was the last meeting, I think that's correct.

Mr. Moore: I think I need to ask that these two documents be made a part of the record for this case.

Mayor Hammett: OK, yeah we can give copies to Lori, if she can have mine after the meeting.

Mr. Black: She's got them

Mayor Hammett: Ok, alright, anybody else?

Ms. Taylor: I, I just have a comment. That I just like to clarify, that I know that Aston Gardens is higher residential, but it's a retirement community that has independent living apartments and right to the we, we, excuse me, west of this property is assisted living, which the majority of those residents I'm assuming don't drive. So its not like a residential property with 100 plus homes that have maybe two car members of it, and the independent living also has a bus that transport them to many activities that don't add additional cars onto the road. And that's still my concern too, is that I'm not, I'm not so frustrated by the density per se, I mean I would like it much less, but just the added road traffic and what's going to happen there in the future, until um we can determine what we need to do.

Mayor Hammett: Uh actually this is similar to Aston Gardens, I mean its independent living, cause you have to be over 55 to be in it.

Ms. Taylor: Yeah, but it's a lot different.

Unidentified Speaker: Well there in, independent living is, is just an inaccuram, it, it there's really no

Mayor Hammett: Right, right.

Unidentified speaker: legal entity, and, and this is pretty much the same type of a, a community. We're building about a 10,000 square foot community center, uh with food and dining and service and I, I might add, we're going to own the club and operate it, just like we did when we had Aston. So we're gonna be part of the community and part of the neighborhood. You know for as long as we possibly can, uh this is not a standard, uh condominium community where we're building and the moving on. Our intention is ta, own and operate the club and that, we, we've done that in several different locations across the state and we have similar type projects uh in on Marco and, and in uh Sarasota, uh and I think the benefit to the community is that you're able to incubate some of your seniors that are looking for a different type of alternative

that don't necessarily want to live in a golf course community. This community will have very low monthly fees, uh because we're going to own the club and not, uh you know add that burden cost to the homeowners, and we're gonna have full services. And I think part of that helps reduce the, the daily trips, and we have dining and we have uh a movie theatre and computerized interactive golf and all of those different other activities. It helps to keep people active within the community.

Mayor Hammett: ok, oh

Mr. Woods: I have a question

Mayor Hammett: yeah, go ahead, Dr. Woods.

Mr. Woods: yeah the right-of-way for the road going to Venice Avenue, has that been cleared? Is that a, is that going to happen?

Mr. Black: That's the road that goes up through the center of the property owned by the church.

Mr. Boone: Yes, it exists, it is, it exists presently as a 30 foot ah right-of-way ah that this property is a benefited property of. Meaning this property has the use of that, and ah 30 foot is sufficient to ah construct a road to city standards and um we're gonna try to work to improve that some. But it is sufficient as it is right now.

Unidentified Speaker: And the intent right there is that we'll improve the road, the road will be uh deed restricted, that the homeowners of our community will pay for the maintenance and repair of that road.

Mr. Woods: Your argument is that you do have two...

Mr. Boone: Yes, and the

Mr. Woods: ingress, egress points

Mr. Boone: and, and the, the, to Venice Avenue ingress point will be built to city road standards, it will be maintained in perpetuity by the homeowner's association.

Mr. Black: Mr. Mayor, Mr. Slaughter was able to confirm the density of Aston Gardens, its 8.2 units per acre.

Mayor Hammett: Thank you, less than this one. What's uh, what's this motion?

Mr. Black: those were materials that Mr. Moore asked that I pull together.

Mr. Moore: I, I requested that because, if you'll recall at the original hearing, they included a site plan, you know and we didn't have that in our packet, and they said what you see is what you get. But a b, a b, I mean a uh RMF-3 designation gives them a ceiling of 55 feet, well these

buildings were all well under 55 feet, I think the two over one was 37'3" tall and I'm, I was very comfortable with that because with the uh buffering and the trees and everything else uh that was, that made it a good project. And I just wanted to make sure that when, if and when we approve the ordinance that, that these were conditions of that approval.

Mayor Hammett: Gotcha, ok. Does anyone else want to come forward?

Mr. Black: Do you need to be sworn.

Ms. Stelzer: Do you swear or affirm that the testimony you will give before this board shall be truthful?

Unidentified speaker: yes ma'am

Ms. Stelzer: Thank you

Bruce Lebedun: Uh Bruce Lebedun a resident of Venice. I just think that da listening to all this, there's just one big problem, and the problem I see is that there's no strategy, no vision in that entire section over there. You've got seven other plats exactly like the one that's being proposed here uh Judge Moore has alluded to that fact. It's gonna be a domino effect everybody else is gonna ask for the same thing that's gonna bring uh the entire units on that street to 1152 units. So, I just feel that with what's out there you have to have some type vision to ah, to build out there, and not just take one at a time and everybody gets ah quite a bit of density there. There are other classifications other than RMF-2 that will fit here that will be less dense. Thank you.

Mayor Hammett: Thank you, anyone else? Close the public hearing, Um

Mr. Moore: Mr. Mayor?

Mayor Hammett: Judge Moore

Mr. Moore: ok, um I'd like to make a motion that Ordinance um let's see, number 2007-39 be approved and adopted with the following conditions, number one, uh oh, that um and if you look at the ordinance that was originally adopted.... I have too much paperwork. Ok, that condition number two maximum residential density be seven units per acre, condition number three total dwelling units shall not exceed 105 units and that the height of all buildings shall be limited to the concept plans and illus, illustrative plan views presented by the applicant at the first hearing, and in no event shall building height exceed 55 feet for the two four story buildings. And finally, that the development of the subject shall be consistent with and limited to the design and intensity of development depicted on the concept plan dated April 15, 2007.

Mr. Woods: Second

Mayor Hammett: Well put, ok I mean this is really just a rezone, but I think this is a point to put it in, so when it comes back for approval we understand, uh the developer understands, you

know, where we're gonna be. oh so that was a good job, anybody else? Mr. Black did you want to say something?

Mr. Black: Just so folks are aware, uh most communities in Florida, across the county are not allowed to stipulate rezonings, we actually derived that power from the county charter. In case law that is here and in the case where a property owner presents specific plans that you want to bind them to, you need to do that as a stipulation to the rezoning, it was part of the discussion Mr. Moore and I had uh in our one on one normal briefings, which was the genesis for him bringing this forward.

Mayor Hammett: Ok, no other discussion, could I have a roll call vote.

Ms. Stelzer: Mr. Willson, YES; Ms. Taylor, YES; Mr. Woods, YES; Mr. Simmonds, YES; Mr. Moore, YES; Mr. Tacy, YES; Mayor Hammett, YES.

Mayor Hammett: Motion passed unanimously. Now....

Mr. Black: Well their, their plan actually shows a northern entrance through the Church of the Nazarene if you look at the site plan, obviously this is a rezoning so you don't have the benefit at this point although its been presented. Um Mr. Moore actually has asked them, work some material with them that addresses that, but our joint planning agreement with Sarasota County provides for and requires that we create grid systems through here to interconnect between Venice Avenue and Hatchett Creek to disburse the traffic and not have single ways in and out, and that reflects the historical grid pattern ahh from East Gate on the island and other components. Its really no different than what the city has done on the north side of Venice Avenue to require Auburn Lakes Drive to interconnect between Auburn Road and Capri Isles. Ahh and that is intended to disburse the traffic and not funnel traffic onto major arteries. To allow for neighborhood disbursement of those traffic volumes. And that is one of the requirements of the joint planning agreement provides for the potential of three access points. Uh one in the vicinity of this project and then two between here and Auburn Road, originally both city staff and county staff had desired to extend Auburn Road, ah directly through to Hatchett Creek because the result of wetlands and other environmental features, that's not feasible at this time, uh so you are looking and, and will have with the comprehensive plan and joint planning agreement a grid system to disburse that traffic to Pinebrook, Hatchett Creek, Venice Avenue and Auburn Roads ultimately as this area develops. That is consistent with the urban design new traditional design and support of Sarasota County transportation and planning staff and city planning staff.

Verbatim from October 23, 2007 City Council Meeting Village at Venice Rezoning Petition

From Att A page 33 of 40

JPA with County requires we create a grid system through here to interconnect between Venice Ave and Hatchett Creek to disburse traffic

From: Mike Rafferty <mer112693@aol.com>

To: mer112693 <mer112693@aol.com>

Subject: Fwd: City of Venice Case 19-04RZ

Date: Wed, Dec 4, 2019 10:24 am

Attachments: svnc jpa 07.pdf (98K), svnc jpa table07.pdf (235K), svnc jpa 12.pdf (98K), svnc jpa table 12.pdf (195K)

-----Original Message-----

From: Brett Harrington <bharring@scgov.net>

To: mer112693@aol.com <mer112693@aol.com>

Cc: Paula Clintsman <pclintsm@scgov.net>; Planner <planner@scgov.net>; Jane Grogg <jgrogg@scgov.net>

Sent: Fri, Nov 8, 2019 2:58 pm

Subject: City of Venice Case 19-04RZ

Mr. Rafferty,

The County did not send a report to the Venice TRC.

The first information that we received from the City of Venice regarding the Ramsey Road Multi-Family Project came to us on 10/11/19 and consisted of the Traffic Study that was prepared by George F. Young, Inc., and some emails relating to the traffic study methodology, as well as site and development plans. This is 10 days after the COV Planning Commission meeting that you reference. Per the Joint Planning Agreement (JPA), the County has 20 working days to respond. Since the info came in late on 10/11, staff review did not begin until 10/14, which means our initial comments to the City with regard to the TIA would be due November 8th or thereabouts. I have not received any comments from our Transportation Planning Staff on that review as of the writing of this response.

The City of Venice subsequently sent us a second packet of information to review on 10/23/19 that consisted of Architectural Elevations, Landscape Plans, Lighting Plan, a copy of the COV TRC comments, and the site and development plans. This was also forwarded to pertinent County staff for review and comment if necessary, and per the JPA twenty working day response period, those comments are not due to the City until 11/22/19.

With regard to the provision for a "grid system and interconnect, this was referenced in the first JPA (January 2007), as well as the amended and restated JPA (July 2012). In the original JPA the area in reference was in "Area 4 – South Venice Neighborhood. In the amended and restated JPA, the Area number changed to "Area 5 – South Venice Corridor. I have attached the text and tables from both of those JPA documents and have underlined the language that refers to this for your records.

I hope this is helpful.

Sincerely,

-Brett Harrington

Brett A. Harrington, AICP

Planning & Development Services Department

Long Range Planning Division

1660 Ringling Blvd. | Sarasota, FL 34236

P: 941-861-5187 | bharring@scgov.net

From original JPA (2007)

Final Document 1/4/07

Exhibit B

City of Venice - Sarasota County
Joint Planning Agreement Matrix

EXPECTED POTENTIAL VOLUNTARY ANNEXATION (Green Areas on Exhibit A)							
Location	Acreage	Existing County Future Land Use	Land Uses To Be Determined by the City of Venice *	Transportation	Water and Sewer	Environmental	Timing of Infrastructure Availability (Years)
# 1 (Knights Trail Park Area)	488.5	County Semi-Rural	Mid-Range Intensity Residential, Industrial / Commercial, Conservation	Intersection Improvements on Knight's Trail	City Water and Sewer	No Issues Identified	6 - 15
#2A (Auburn Road to I - 75)	176.1	County Moderate Density Residential	Low Intensity Residential, Conservation	No Issues Identified	West of I-75, City Water and Sewer	No Issues Identified	1 - 10
#2B (I -75 to Jacaranda Blvd.)	175.4	County Semi-Rural, Commercial	Mixed Use, Conservation, Industrial	Require ROW Dedication for Jacaranda Blvd.	East of I-75, City Water and County Sewer	No Issues Identified	1 - 10
#3 (Border Road to Myakka Corridor)	628.5	County Semi-Rural	Low Intensity Residential, Conservation	Extend Jackson Road from Border Road to Laurel Road as two-lane facility	City water and County Sewer	City will support purchase or require conservation easement along River	6 - 20
#4 (VGRC Extension)	52	County Semi-Rural	Low Intensity Residential, Conservation	No Issues	City water and County Sewer	City will support purchase or require conservation easement along River	1 - 5
#5 (South Venice Avenue Corridor)	238.7	Commercial, Medium Density Residential	Mid-Range Intensity Residential, Mixed Use, Conservation	<u>Potential Neighborhood Roadway Interconnection to Hatchett Creek Road</u>	City Water and Sewer. Evaluate Interconnections	No Issues Identified	1 - 10
#6 (Laurel Road)	264.8	County Moderate Density Residential, Medium Density Residential, Mixed Use	Mixed Use, Conservation	Maintain Consistency with Pinebrook / Honore Road Extension	County Water and Sewer	No Issues Identified	1 - 15

From Original JPA (January, 2007)

- (5) Area 4 – Venetian Golf and River Club Area: The land uses to be evaluated are low-intensity residential and conservation. Development shall be served by City water and County sewer. The City will support the acquisition of conservation interests in properties along the Myakka River or, where they are not acquired, require a Conservation Easement for annexed properties along the Myakka River.
- (6) Area 5 – South Venice Avenue Corridor: The land uses to be evaluated are mid-range intensity residential, conservation and mixed uses. Development shall be served by City water and sewer. Interconnections between City and County water and sewer facilities shall be evaluated. The Party with jurisdiction over the development application shall require necessary transportation improvements including a neighborhood roadway interconnection to Hatchett Creek Boulevard to be provided by the developer.
- (7) Area 6 – Laurel Road: The land uses to be evaluated are mixed uses and conservation. Development shall be served by County water and sewer. The Party with jurisdiction over the development application shall require that transportation improvements shall be consistent with the proposed Pinebrook/ Honore Road Extension alignment as depicted on the County thoroughfare plan and be constructed with appropriate contributions from the developer consistent with the County's land development regulations.
- (8) Area 7 – Pinebrook Road Area: The land uses to be evaluated are low and mid-range intensity residential. Development shall be served by City

From Amended + Restated SP4 (2012)

Exhibit B

City of Venice - Sarasota County Joint Planning Agreement Matrix

POTENTIAL ANNEXATION AREAS (Green Areas on Exhibit A)							
Location	Approx. Acreage	Existing County Future Land Use	Maximum Allowable Density per City of Venice Comprehensive Plan (Adopted 2010)	Transportation	Water and Sewer	Environmental	Timing of Infrastructure Availability (Years)
#1 (Rustic Road)	489	County Semi-Rural	Subarea 1: 5 to 9 d.u./ac. Subarea 2: 5 d.u./ac.	Intersection Improvements on Knight's Trail	City Water and Sewer	No Issues Identified	6 - 15
#2A (Auburn Road to I-75)	176	County Moderate Density Residential	3 d.u./ac.	No Issues Identified	West of I-75, City Water and Sewer	No Issues Identified	1 - 10
#2B (I-75 to Jacaranda Boulevard)	175	County Semi-Rural, Commercial	Subarea 1: 9 d.u./ac. Subarea 2: 13 d.u./ac. Subarea 3: 18 d.u./ac.	Require ROW Dedication for Jacaranda Blvd.	East of I-75, City Water and County Sewer	No Issues Identified	1 - 10
#3 (Border Road to Myakka River)	629	County Semi-Rural	Subarea 1: 5 d.u./ac. Subarea 2: 3 d.u./ac.	Extend Jackson Road from Border Road to Laurel Road as two-lane facility	City Water and County Sewer	City will support purchase or require conservation easement along River	6 - 20
#4 (South Venice Avenue)	239	Commercial, Medium Density Residential	7 d.u./ac.	<u>Potential Neighborhood Roadway Interconnection to Hatchett Creek Road</u>	City Water and Sewer, Evaluate Interconnections	No Issues Identified	1 - 10
#5 (Laurel Road Mixed Use)	296	County Moderate Density Residential, Medium Density Residential, Mixed Use	8 d.u./ac.	Maintain Consistency with Pinebrook / Honore Road Extension	County Water and Sewer	No Issues Identified	1 - 15

Note: Area 5 and 6 size clarifications made Nov. 12, 2008; additional clarifications made October 2010 include: (1) four areas (former areas 4, 9A, 9B and 10) deleted from Potential Annexation (Green Areas on Exhibit A) and added to Potential Coordination/Cooperation (Blue Areas on Exhibit A) as areas 10, 11A, 11B and 12 with revised utility and environmental commitments; (2) name changes to reflect City of Venice Comprehensive Plan; and (3) revised acreages to reflect approximations.

From Amended + Restated JPA (July, 2012)

water and County sewer. The Party with jurisdiction over the development application shall require that transportation improvements including the extension of Jackson Road from Border Road to Laurel Road as a two-lane facility will be required to be provided by the developer consistent with the standards in the County's land development regulations. The City will support the acquisition of conservation interests in properties along the Myakka River, or where they are not acquired, require a Conservation Easement for annexed properties along the Myakka River.

- (5) Area 4 — South Venice Avenue Neighborhood: The land use adopted in the Venice Comprehensive Plan for this Area is a maximum of 7 units per acre, calculated on a gross acreage basis. Up to 33% of the acreage will be allowable for nonresidential (retail, office and commercial) uses. The square footage of nonresidential uses allowed in this Area shall not exceed a 1.5 FAR. Development shall be served by City water and sewer.

Interconnections between City and County water and sewer facilities shall be evaluated. The Party with jurisdiction over the development application shall require necessary transportation improvements including a neighborhood roadway interconnection to Hatchett Creek Boulevard to be provided by the developer.

- (6) Area 5 — Laurel Road Mixed Use Neighborhood: The land use adopted in the Venice Comprehensive Plan for this Area is a maximum of 8 units per acre, calculated on a gross acreage basis. For Subarea 1 (north of the proposed connection between Laurel Road and the proposed Honore Avenue extension),