



City of Venice

401 West Venice Avenue
Venice, FL 34285
www.venicegov.com

Meeting Minutes City Council

Thursday, June 15, 2023

9:00 AM

Council Chambers

Continuation of Public Hearing for Ordinance No. 2023-11 Milano PUD Zoning Map Amendment Petition No. 22-38RZ

[23-6115](#) Meeting Instructions and Request to Speak Form

Broadcast

CALL TO ORDER

Mayor Pachota called the meeting to order at 9:00 a.m.

ROLL CALL

Present: 7 - Mayor Nick Pachota, Dr. Mitzie Fiedler, Vice Mayor Jim Boldt, Ms. Helen Moore, Mrs. Rachel Frank, Mr. Dick Longo and Mr. Rick Howard

ALSO PRESENT

City Attorney Kelly Fernandez, Assistant City Attorney Maggie Mooney, City Clerk Kelly Michaels, City Manager Ed Lavalley, Planning and Zoning Director Roger Clark, Deputy City Clerk Mercedes Barcia, Deputy City Clerk Toni Cone, and Recording Secretary Amanda Hawkins-Brown.

PLEDGE OF ALLEGIANCE

Dr. Fiedler lead the Pledge of Allegiance.

I. PUBLIC HEARING

ORDINANCES - FIRST READING

ORD. NO. 2023-11

An Ordinance of the City of Venice, Florida, Granting Zoning Map Amendment Petition No. 22-38RZ for the Milano Planned Unit Development (PUD) Located at Laurel Road and Jacaranda Boulevard, by Changing the Land Use Designation for an Approximately 10.42 Acres Parcel from Open Space to Commercial and Amending the Milano PUD Binding Master Plan (BMP) to Allow for Commercial Development; Providing for Repeal of all Ordinances in Conflict Herewith; Providing for Severability; and Providing an Effective Date (Quasi-judicial)

Mayor Pachota announced that this is a continuation of the May 24th public

hearing.

City Attorney Fernandez questioned Council members concerning ex-parte communications and conflicts of interest. Mr. Howard, Ms. Moore, Vice Mayor Boldt, and Mrs. Frank disclosed site visits. Dr. Fiedler and Mr. Longo disclosed site visits and emails received.

City Attorney Fernandez reminded Council of their role and provided guidance for today's proceedings, explained how to handle objections, and noted hearing schedule.

Attorney Dan Lobeck, representing Venetian Golf and River Club Property Owners Association (VGRC POA), and Marshall Happer, Affected Party, being duly sworn, spoke on owners association's operation, professional background, survey conducted at VGRC, recommendation for opening statements in proceedings, rezoning issue, Milano Planned Unit Development (PUD) 2017 Master Plan, subdivisions within the PUD, owners of the acres of the Milano PUD, 2020 Milano PUD Amendment, 2022 Milano PUD Amendment, unified control, Section 86-130(b)(8), traffic impact on Jacaranda Road, Section 86-130(r) serving surrounding developments, and failure to file open space dedications.

Recess was taken from 9:37 a.m. until 9:46 a.m.

Michael Fury, Consultant, being duly sworn, spoke on credentials, scope of work, review of February 2023 report, 2019 Florida Department of Transportation (FDOT) Traffic Forecasting Handbook, Level of Service ratings, Level of Service at intersections, use of the 2023 FDOT Multimodal Quality Level of Service (QLOS) handbook, adjustment factors, turn lanes on Jacaranda Boulevard, service volume comparison, exits for VGRC, computer model printout with anticipated volumes, model for signalized intersection, and safety crossing at the Vento Boulevard intersection.

Recess was taken from 10:12 a.m. until 10:21 a.m.

Attorney Jeffrey Boone, Agent for Applicant, being duly sworn, cross examined Mr. Happer regarding history on Planning Commission, vendor used in conducting survey, reason for survey, communications sent prior to hearing, cross examinations by Attorney Lobeck, and previous participation during proposed Walmart application at Knights Trail. Attorney Lobeck objected for scope. Attorney Boone continued to question regarding amendment versus rezone. Attorney Lobeck objected for arguing. Attorney Boone continued to question regarding understanding of PUD Amendments.

Attorney Boone cross examined Mr. Fury regarding review of all Stantec reports, professional experience, and work done in Sarasota County. Attorney Lobeck objected to Attorney Boone testifying and immaterial. Attorney Boone questioned on manner of review, conclusion of review, time driven on roadways reviewed, unique features of Jacaranda Boulevard, email from Mr. Happer regarding traffic study, and client given guidelines used when doing independent review. Attorney Lobeck objected for mischaracterization and question asked and answered. Attorney Boone continued his questioning regarding reason POA indicated their position on proposed shopping center for review of report. Attorney Lobeck objected for speculation. Attorney Boone questioned regarding reason for not submitting report to City, indicated failure on Jacaranda Boulevard, number of right turn lanes, multiply adjustment factor for turn lanes, level of service analysis for Comprehensive Plan amendments, and the City's use of mobility fees system. Attorney Lobeck objected to Attorney Boone testifying. Attorney Boone questioned the difference between transportation impact fees and mobility fee system, and whether mobility fees could be used for Jacaranda Boulevard failure.

Attorney Lobeck redirected questions for Mr. Fury regarding drafting a report in support of shopping center, whether in support of shopping center, any knowledge of planned improvements to Jacaranda Boulevard, and opinion of Jacarada Boulevard failure if shopping center opens.

Recess taken from 11:08 a.m. until 11:21 a.m.

Mayor Pachota spoke on meeting decorum.

Council questioned Mr. Happer regarding number of surveys issued per home, knowledge of quasi-judicial rules regarding consideration of popularity, awareness of Jacaranda Boulevard recommendations on Capitol Improvement Schedule (CIS), homeowners opinion if a variance for traffic signal was approved, and ability to open Ciltadella Drive for a second entrance.

Council questioned Mr. Fury whether potential traffic from new home development was considered in review and whether Ciltadella Drive modification was included.

Lunch recess was taken from 11:37 a.m until 12:47 p.m.

Attorney Lobeck, representing the North Venice Neighborhood Alliance (NVNA), called Mr. Fury to testify. Attorney Boone made a standing objection to Attorney Lobeck attempting to rehabilitate witnesses.

City Attorney Fernandez clarified that the presentation is for new testimony only and not review of old testimony or to continue previous questioning.

Attorney Lobeck and Mr. Fury spoke regarding the Jacaranda Road turn lanes, and locations of the start and end of segment analysis. Attorney Boone objected to move to strike from the record.

Recess was taken from 12:58 p.m. until 1:01 p.m.

Attorney Lobeck noted that all affected parties he represents adopts the testimony presented by each other. Attorney Boone objected that each affected party should present separate testimony.

Jan Norsoph, Consultant, being duly sworn, presented his credentials, his experience as an expert witness, land use compatibility, inconsistency with Section 86-32, incompatibility with Policy 8.2, Section 86-130, neighborhood scale of use, L.U. 4.1.1 Policy 8.2, Land Use Density and Intensity, character of use, Comprehensive Plan Strategy L.U. 1.2.16 Mixed Use Residential, commercial use not included in the Binding Master Plan, proposed use serving neighborhood outside the Milano PUD, adjacent land uses, commercial not designated in the original PUD plan, commercial neighborhood districts, nearby shopping centers, incompatibility with density and intensity, creating an isolated commercial center, LDC Section 86.47, Planning Commission findings, adequate alternative sites, LDC Section 86.32, and inconsistency with the Comprehensive Plan.

Jil Pozarek, Affected Party, being duly sworn, spoke on North Venice Neighborhood Alliance information and mission, LDR Planned District Zoning amendments, LDC Chapter 86, comparison of old LDR to new LDR updates, consideration of future need, and applicants choice to file under old code.

Kenneth Baron, Affected Party, being duly sworn, spoke on being a resident since 2021, reason for selecting home in this area, importance of resident's safety, Neal Communities marketing materials, Milano Binding Master Plan, LDC Section 86.130, no precedent for similar amendments, review of testimony by Pat Neal, applicant's survey details, and proposed development impact on quality of life.

Rick Cordner, Affected Party, being duly sworn, spoke on reason for selecting area for residence, wildlife in area, bird sightings, importance of wetlands, threaten species in area, site photos, past eagles nest, and excerpt from Earth Resources report.

Attorney Lobeck spoke on Section 86.130(8) neighborhood commercial uses being determined at the time of approval of the PUD, unified control, open space dedications, final plats, and a bait and switch scenario for homeowners.

Recess was taken from 2:01 p.m. until 2:12 p.m.

Attorney Boone cross examined Mr. Cordner regarding species observed being threaten or endangered, interpretation of applicant's environmental assessment, species dens or nests at site, locations where photos taken, and birds utilizing other neighboring wetlands.

Attorney Lobeck redirected questions for Mr. Cordner regarding the acceptability of losing any part of the wetlands, and familiarity with Comprehensive Plan section on the minimization of wetland impact. Mr. Boone objected beyond the scope of his cross examination.

Attorney Boone cross examined Ms. Pozarek regarding if NVNA supported any other development, and NVNA participation in LDR citizen petition.

Attorney Boone cross examined Mr. Norsoph regarding hours spent on analysis, communication with City staff, professional opinion for denial, and reason for not contacting City staff. Attorney Lobeck objected to asked and answered. Attorney Boone continued questions on past experience with applications in the City of Venice, and compensation details. Attorney Lobeck objected for immaterial. Attorney Boone continued to question regarding repetitive references of Planning Commission findings in report, if Commission approved application would recommendation be the same, and understanding of Policy 8.2. Attorney Lobeck objected for arguing with witness. Attorney Boone questioned regarding language in Policy 8.2, details of Planning Commission vote, and knowledge of positive comments made by Planning Commission. Attorney Lobeck objected for relevance. Attorney Boone continued questions on prior report detail removed, and impact of size of commercial development. Attorney Lobeck objected to arguing with witness. Attorney Boone questioned regarding compatibility language, precedent language, other sites currently available in area, utilizing Planning Commission findings, and Rinker Material site application from 2005. Attorney Lobeck objected to Attorney Boone adding testimony and relevance. Attorney Boone questioned that Comprehensive Plan allowing different types of activities in different areas. Attorney Lobeck objected for facts not evidence. Attorney Boone questioned regarding necessity of mixed uses in an area, zoning of PUD, allowable commercial use up to 5%, previous impact to the wetland, whether a Binding Master Plan can be amended, and code allowance for 0.5 (Floor Area Ratio) FAR.

Attorney Lobeck objected that Attorney Boone was testifying. Attorney Boone continued to question on distance of shopping center from residences.

Attorney Lobeck redirected questions for Mr. Norsoph regarding City memorandum from March 23, 2023, understanding as amendment for rezoning, reason for citing Planning Commission findings. Attorney Boone objected for leading witness. Attorney Lobeck continued regarding definition of consideration and criteria, compatibility determined by facts and standards, and whether conflicting opinions can both be correct. Attorney Boone objected for asked and answered. Attorney Lobeck questioned regarding intent of precedent language, and courts consideration of split votes. Attorney Boone objected to relevance. Attorney Lobeck continued to question regarding the report focus on the relevant determination of Planning Commission, accuracy of all Planning Commission findings, revision of report, whether parts of code would still be violated regardless of size of development, commercial being evaluated at time of PUD approval, size consideration in compatibility, and opinion of compatibility. Attorney Boone objected for asked and answered.

Recess from 3:27 p.m. until 3:38 p.m.

Attorney Boone requested rebuttal this afternoon due to one witness availability.

Attorney Lobeck, representing Cielo Homeowners, and Seth Thompson, Affected Party, being duly sworn, spoke on residency since July 2020, position on Homeowner Association Board, Mr. Neal's testimony regarding board position, meeting with Mr. Neal, community survey, successor board member, Applicant's legal right to request amendment, negative impact to surrounding communities, Planning Commission's recommendation for denial, Ceilo Covents and Restrictions, conveyance of common property, reduction of Cielo subdivision size by 11%, quality of property, F.S. 720.3075(5), and Release and Termination of Cielo Easements and Restrictive Covenants. Attorney Boone made a standing objection that testimony is irrelevant. Mr. Thompson continued regarding homeowners knowledge of the release, unified control at time of application, safety concerns, adding a gate for the community, proximity from proposed shopping access point to Cielo entrance, school bus stop, proximity to playground, concerns for attracting transient population, exposed FPL corridor, wildlife use, noise, lighting and traffic pollution, petition for opposition, nearby shopping center and convenient stores, available commercial space, and recommendation to decline application.

Attorney Lobeck spoke on Neal Communities advertising at same time of

workshop, dedication of open space, Council's approval of Cielo Final Plat, email from Planning and Zoning Director Clark stating the Final Plat for Cielo is on file, property being defined as open space in Declaration, F.S. 720, association's approval of release, F.S. 617, and the amendment being a replat. Attorney Boone objected on relevance as replatting is a separate application. Attorney Lobeck continued speaking on amending a Binding Master Plan that is inconsistent with the Plat, unified control, easements, drainage, replacing open space taken, rights of homeowners, Neal Communities' advertisements and contracts, applicant's petition received from parties outside PUD, and Mr. Neal's testimony regarding serving surrounding area.

Attorney Boone had no cross examination.

Council questioned Mr. Thompson regarding the FPL access road, and proposed center's access point on Jacaranda Boulevard.

Recess was taken from 4:32 p.m. until 4:41 p.m.

Gary Scott, Affected Party, being duly sworn, questioned Planning and Zoning Director Clark regarding unified control, applicants choice to file under previous LDR, requirement for unified control, Section 86-130(k), current open space designation on Plat and Binding Master Plan, LDR definition of open space, and replatting. Attorney Boone objected and noted replat is irrelevant. Mr. Scott spoke regarding Mr. Vogler's testimony on replatting. Attorney Boone objected. Mr. Scott continued to question regarding application received to replat Cielo, staff's response to replat application, F.S. 177.081, whether applicant has addressed staff comments, whether Final Plats had been filed for all subdivisions in the Milano PUD, and whether all property has been platted in the PUD. Attorney Boone objected to irrelevance. Mr. Scott continued questions regarding creation of the Milano PUD in 2017, agreement between City and Neal Communities regarding Open Space Restricted Covenant, testimony regarding platting in Milano PUD, map from Milano PUD Binding Master Plan, unplatted residential property, number of lots platted in PUD, time frame for Open Space Dedication, Cielo Preliminary Plat, Cielo Key Sheet, and whether any application had been submitted for additional residential lots in Cielo.

Mr. Scott presented his residency history, professional experience, communication at neighborhood workshop, history of City Council interpretation to regulations, old code Section 20-9.23, communications on past applications for Capri Isle, Pinebrook and Bird Bay, intentions of store owners, and grocery store's requirement for demographic information.

Attorney Boone cross examined Mr. Scott regarding his professional experience, number of land use attorneys in the county, and supporting research.

Recess taken from 5:36 p.m. until 5:59 p.m.

Attorney Boone continued to cross examine Mr. Scott regarding a memorandum sent May 18, 2023, testimony regarding communication at neighborhood workshop, reason for selecting previous PUD to research, awareness of VGRC's annexation, commercial in VGRC on Binding Master Plan, claim that applicant's statement about regulation interpretation being not factual, VGRC rezone petition's Neighborhood Commercial definition, and statement of previous City Councils interpretation of the regulations.

Attorney Boone cross examined Planning and Zoning Director Clark regarding testimony about final plats.

Council questioned Mr. Scott regarding affect on life at VGRC.

Recess was taken at 6:26 p.m. until 6:32 p.m.

Applicant requested to present partial rebuttal due to witness availability and additional time for rebuttal.

Discussion took place in regards to time frames for rebuttal.

Attorney Boone and Alec Hoffner, Consultant, being duly sworn, spoke regarding testimony provided by Mr. Cordner, species observed not being threatened or endangered, clarified observation did not show dens by wildlife, and additional ponds and habitat created for wildlife.

Discussion took place regarding designated representative time frames.

Anthony Demeo, 249 Mestre Place, being duly sworn, spoke against the petition.

Rona Elias, 264 Acerno Drive, being duly sworn, spoke against the petition.

Olen Thomas, 248 Acerno Drive, being duly sworn, spoke against the petition.

Recess was taken from 7:06 p.m. until 7:19 p.m.

Pat Appolonia, 157 Padova Way, being duly sworn, spoke against the petition.

Francis Recchuiti, 137 Cipriani Way, being duly sworn, spoke against the petition.

Todd Myer, being duly sworn, spoke on behalf of Michael Duke, 241 Montelluna Drive, Charlene Moeckel, 185 Treviso Court, John Moeckel, 185 Treviso Court, Michael T Carr, 110 Bolanza Court, Timothy T Carr, 110 Bolanza Court, Pat Carr, 110 Bolanza Court, Ron Thring, 134 Cipriani Way, Barbara Thring, 134 Cipriani Way, Paul Scarff, 109 Tiziano Way, Linda Sawyer, 168 Savona Way, Fred Sawyer, 168 Savano Way, Korene King, 170 Palazzo Court, Janeen Tonnel, 273 Padova Way, David Ruhland, 273 Padova Way, and Billy Kelly, 116 Valenza Loop, in favor of the petition.

Todd Myer, 102 Valenza Loop, being duly sworn, spoke in favor of the petition.

Kate Myer, 102 Valenza Loop, being duly sworn, spoke in favor of the petition.

Joan Harder, 209 Corelli Drive, being duly sworn, spoke against the petition.

Joan Harder, being duly sworn, spoke on behalf of Ron Walters, 273 Bocelli Drive, and Barbara Puccia, 179 Valenza Loop, against the petition.

Lee Pirrotti, 114 Medici Terrace, being duly sworn, spoke against the petition.

Lee Dube, 268 Caserta Court, and on behalf of Jennifer Dube, 268 Caserta Court, being duly sworn, spoke against the petition.

Shirley Demeo, 249 Mestre Place, being duly sworn, spoke against the petition.

Tyler Cassell, 201 Medici Terrace, being duly sworn, spoke against the petition.

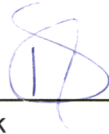
II. ADJOURNMENT

The meeting was recessed at 8:18 p.m. until June 16, 2023 at 9:00 a.m.

ATTEST:



Mayor - City of Venice



City Clerk