

## **Information/Options Paper for Owners Regarding Renaissance View Corridor Easement (VCE)**

Note to Readers: All referenced attachments and other related documents can be found on the Renaissance website by clicking on this link: [www.rencondo.com](http://www.rencondo.com). **All of the documents are in the secured owner’s section of the website under the documents section; therefore, login credentials are required.** If you do not have a login for the website, please contact Jenniffer in the Admin Office. Her contact info is: [jshaffer@rencondo.com](mailto:jshaffer@rencondo.com) and 941-957-3957.

1. **Purpose:** To provide information to Renaissance homeowners regarding any official request for any modification of the existing VCE between the Renaissance and the City of Sarasota as a result of planned development on the Bayfront property. This paper is designed for both those with little to no knowledge of the subject matter as well as those who are well informed on the subject matter.

It is important to ensure all homeowners understand what unique rights we enjoy with the existing VCE agreement as well as become familiar with some of the potential changes that could occur as a result of the Bayfront development plan underway. Specifically, some plans for a new Performing Arts Center (PAC) to replace the Van Wezel include a structure that could violate the current VCE with the City.

How the Board deals with any discussion with the City will be based on agreement within the Renaissance owner community.

2. **Process Going Forward:** Owners are requested to provide any comments, questions or additional relevant information to Kathy Grant, Manager, for collation and providing to the Board. After all owners have time to review this document and related material on the Renaissance website, there will be opportunity for possible town hall zoom meetings to deal with owner questions and comments. As appropriate, the Board will arrange for zoom meetings with homeowners, interested parties and experts. If there is what the Board considers an advantageous offer by the City in exchange for the modification, the Board will send out an owner survey. This will determine whether there is significant majority agreement that the Board should enter into any negotiations with the City to amend our existing VCE.

The Board intends to have a significant majority, of responding homeowners to the survey before committing to any course of action.

3. **Background regarding the VCE:** The Renaissance has a VCE with the City of Sarasota executed in 1999. An attempted Amendment was executed in 2001 to deal with a plan by the Sarasota Orchestra to expand its footprint, but it was challenged in the Circuit Court (2005). The Court reaffirmed the original VCE and that is where we stand today. (Owners are encouraged to read Attachments 1-8 on the website.) The following is a summary of key points of the existing Easement:

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- a. Negotiated with the City by the original developer to create and maintain Renaissance property value by protecting the west and northwest bay water views.
  - i. The existing VCE with the City of Sarasota (See attachments 1, 2 and 3) applies only to the Renaissance. Examination of the legal surveyor descriptions of the Renaissance I in the Declaration of a Condominium Instrument and the Easement establishes that the Easement applies to the Renaissance only and not surrounding structures on the site (See attachment 4).
  - ii. There was an attempt to amend the Easement in 2001(See attachment 5).
  - iii. There was a Stipulated Final Judgment in 2005 that rendered the Easement Amendment null and void (See attachment 6).
- b. The 99-year Easement is effective until 2098.
- c. With the exception noted in d below, neither the City nor any other person or entity can construct any new structure having a height of greater than 45 feet above the established minimum Federal Emergency Management Agency (FEMA) flood elevation level (“Flood Zone A”).
- d. The Easement allows “expansions to the “fly” or “loft” of the Van Wezel Hall and/or a successor hall and one other, existing or new structure for the primary use of the performing arts may have a height of up to 90 feet above Flood Zone “A”.
- e. The Easement does not address the number, location or mass of new permitted structures up to 45-feet. The Easement does specify that structures up to 45-feet also have to comply with the building code flood requirements.
- f. The current Easement does not address excessive noise and light intrusion from the Bayfront to the Renaissance.
- g. The current Easement does not address width or depth parameters (massing) for new structures at the Bayfront.
- h. Any new structure cannot be constructed on or within 750-feet of the eastern boundary of the City Property (Tamiami Tr./US 41), within 100-feet of any other improvement on the City Property. However, a parking structure constructed for another performing arts facility (new PAC) could be deemed to be a part of such facility and not subject to the 100-foot separation requirement. Only a small number of parking spaces for the PAC have been identified for a venue which has capacity of 2,300 (See attachment 9). The issue of a potential new parking structure being added needs to be considered.
- i. The existing Easement does not define the word “structure.” and the new Performing Arts “Center,” does have multiple buildings clustered together as a “single structure.” Multiple, potentially over 45-ft buildings within the City approved footprint could violate the Easement (See attachment 10).
- j. The Renaissance VCE is legally binding and has been unsuccessfully challenged in the past.
- k. The VCE states that the City and the Renaissance agree that any litigation costs to enforce any right or remedy under the Easement will be paid by the losing party.

**4. Additional Information re the Bayfront Development and the VCE:**

- a. The Bayfront consists of 53 acres of City owned property which is bordered by Centennial Park/Marina to the north, Tamiami Tr./US 41 to the east, Boulevard of the Arts to the south and Sarasota Bay to the west.
- b. Renaissance views to the north, east, south and southeast are private property and controlled/managed by the City of Sarasota.
- c. Renaissance views to the west and northwest will change both positively and negatively with the development of the Bayfront depending upon the observer.
- d. Renaissance views to the west and northwest will significantly change with or without a modification to the current Easement.
- e. Renaissance water and Ringling Bridge views to the south and southwest have already, and will continue to be, affected with the Quay Development 18 story condos already built and the proposed 18 story condos west of Tamiami and south of BLVD of the Arts.
- f. The Bayfront Park Conservancy is acting on the City's behalf to develop the Bayfront property.
- g. On September 6, 2018 the Sarasota City Commission approved the Bayfront Master Plan with the new PAC at the heart of it. The Master Plan was updated by the City on August 30, 2019 (See attachments 10, 11, and 12,).
- h. Development of the Bayfront is an evolving/dynamic process which may take many years to fully develop.
- i. Sarasota City and County Commissions have approved a 30-year Tax Incremental Finance (TIF) Plan which will help finance the new PAC/Bayfront Project. The TIF takes increased tax revenues from increased property values of surrounding properties and allocates them to the Bayfront Development. A map of the TIF area is attached (See attachment 14).
- j. Phase 1 of the Bayfront property Park (Southwest corner) is currently being built and developed (See attachment 15). It is projected to open in 2021/2022.
- k. To address current and future road/traffic congestion, roundabouts have been built at 10<sup>th</sup> Street/US 41, and Fruitville/US 41 to improve traffic flow to and from the Bayfront. A roundabout at Hwy 41 and BLVD of the Arts is also planned in the future.
- l. Traffic and noise will likely increase during events at the Bayfront.
- m. The westerly and northwesterly water views are one of the Renaissances most valuable assets, adding to the value of each Renaissance unit. Each west unit has its own unique view and units on the west and northwest will be most affected.

**5. Background regarding the Van Wezel (VW) and the new Performing Arts Center (PAC):**

- a. According to the City's 2017 Climate Adaptation Plan, the 50-year-old VW Hall is among the City's most vulnerable structures, sitting in a high-risk flood zone. The Hall is nearing the end of its service life.
- b. FEMA compliance codes preclude necessary renovations of the VW, as structural modifications exceed more than 50% of the buildings value.

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- c. Local building code requires that new construction on the Bayfront must be above the FEMA flood plain level of 14-feet (Current code), or 11-feet as we interpret the Easement as the date signed in 1999 (See attachments 16, 17, and 18). The VWF wishes to achieve a longer useful life of the PAC and is proposing adding 4.9-feet for a total of 18.9-feet above sea level. They state that at 18.9-feet, the PAC would have a useful life of 70 years. However, the additional 4.9-feet is not a building code requirement.
- d. The City of Sarasota proposes to convene a blue-ribbon committee to advise on the future of the VW. Potential options could include: repurposing as is, modifying, or demolition. Demolition of the VW without replacement could open up more water views for the Renaissance. The VW was eligible for the Historic Preservation list in 2019, but has not been put on the list to date.
- e. The City-approved current projection is for the new PAC is to be located at the northwest corner of the property (See attachments 10 and 11). This is only a concept to illustrate location, and relationship within the Park.
- f. The VWF is proposing building a new PAC which the main structure (with FEMA requirements) will meet the current 104-foot height easement restriction. The Easement modification requested is for the fly tower which adds another 22.8-feet in height, 60-foot wide (east/west direction), and 125-foot deep (North/south direction). The fly tower accommodates rigging in which stage sets are hoisted into the tower for different scenes.
- g. The VWF proposal for the new PAC would contain: 230,000 sq foot venue, 2,250 seat main stage, 400 seat flexible performance space, 10,000 sq foot education & lifelong learning center and multiple outdoor public performances spaces.
- h. The VWF says it needs this extra fly tower height/width and depth to compete with other modern performing arts centers (See attachment 13).
- i. For visual/comparison purposes the current Van Wezel striped clam shell portion of the roof is approximately 60-feet high and the fly tower above it is approximately 90-feet high. The Municipal Auditorium is approximately 40-foot high and approximately 100-foot wide at its base. The requested fly tower modification for the new PAC would be like putting the Municipal Auditorium on top of the existing Van Wezel's upper roof and adding another 60-feet to the width. Also, the top of the Hyatt Regency is approximately the same height that the proposed new PAC fly tower would be.
- j. Some westerly and northwesterly Renaissance water views for some units will be affected by the new the PAC structure (Up to approximately 20% or more loss of the water views for some units without the requested fly tower, and up to approximately 25% or more loss of water views with the requested fly tower modification).
- k. The VWF proposes the Historic Area (southeast corner) of the Bayfront property which includes the Municipal Auditorium (To the north), Tamiami Tr/41 (To the east), and Boulevard of the Arts (To the south) and the Van Wezel Way service road (To the west) remain as is and not be modified. The Municipal Auditorium, and old Chidsey city library, are designated as

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historical buildings. The Van Wezel was eligible for the historical preservation list as of 2019, but has not been put on the list to date.

- l. The new PAC is in the early stages of planning and could take up to 5-7 years before it becomes operational.
- m. The current Van Wezel is planned to remain open until the new PAC is open and operational.

6. **Additional Information regarding VWF seeking a VCE Modification for new PAC:**

- a. The BOD sent a letter to the City through the Renaissance attorney in 2016 to put the City on notice that, in their planning related to the Bayfront development, the VCE needed to be considered. (See attachment 7).
- b. VWF attorney sent the Renaissance attorney an email dated February 28, 2020 summarizing opening a conversation between the 2 parties regarding a modification to the Easement (See attachment 8).
- c. The VWF provided 2 video conference opportunities in 2020 to inform Renaissance owners of their proposed plans for the new PAC. Questions from owners were forwarded to the VWF and answers to those questions were provided (See attachments 19 and 20). The Renaissance asked the VWF for copies of the video presentation, but the VWF attorney advised against it.
- d. The BOD also provided a video conference for homeowners with the Renaissance attorney in which homeowners could address their legal concerns.
- e. The VWF is planning to submit a request for proposal (RFP) in 2021 which will select an architect and design team for the new PAC.
- f. The BOD approved the Renaissance VCE Committee Charter on January 21, 2021.
- g. The BOD President spoke at the City Planning Board meeting on January 29, 2021 to make the Planning Board/City aware of the existing Easement.
- h. Renaissance VCE Chairman, received an email from the City Manager, Mr. Brown dated January 30, 2021, requesting opening of discussion regarding VCE modification (See attachment 21).
- i. The BOD directed the Renaissance Attorney to send a follow-up letter to the newly appointed City Manager, Marlon Brown, February 4, 2021 (See attachment 22).
- j. At a recent City Commission meeting on March 8, 2021, one of the City Commissioners stated “the orchestra is free to build a new venue on the city-owned bayfront land, where the Beatrice Friedman Symphony Center sits.” This could also possibly violate the Easement.

7. **Miscellaneous Information:**

- a. **Assumptions**
  - i. The process of evaluating and responding to, as well as possibly negotiating the request for modification of the Easement could be multi-month. Tracking of entire Bayfront development will be multi-year.
  - ii. The City will honor the current VCE with the Renaissance.
  - iii. The City will not develop or modify the current historical area southeast portion of the Bayfront.

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- iv. The City/Bayfront will maintain the current location of the Van Wezel Way service road which runs north/south in the middle of the property.
  - v. The new PAC footprint and location will be on the far northwest corner of the Bayfront property, and will follow the City approved August 30, 2019 Master Plan (See attachments 10, 11, and 12). This is only a concept to illustrate location, and relationship within the Park.
  - vi. The proposed sideview dimensions of the new PAC will remain as proposed (See attachment 13).
  - vii. The proposed Phase 1 Pavilion/concession stand and restrooms will be built as described in blueprints will comply with the current Easement. Pavilion canopy dimensions are 30-feet high, 55-feet wide, and 136-feet long (See attachment 15).
- b. **Unknowns**
- i. The future, long-term fate of the current Van Wezel is unknown. It could be repurposed as is, designated as a historical building, modified or demolished. If demolished, water views from the Renaissance could be improved.
  - ii. The final new PAC structure/design is yet to be decided. This is only a concept to illustrate location, and relationship within the Park.
  - iii. If the City/VWF will be able to raise enough funds to start/complete the new PAC/Bayfront development is unknown, which is typical for developments of this size.
  - iv. The City's willingness to negotiate any potential modifications to the current Easement that the Renaissance might request is unknown.
  - v. The Bayfront currently does not have known development plans for the northeast corner of the property.
  - vi. Property values at the Renaissance may or may not be improved with the new Bayfront Development (**This would-be pure speculation**). We have attached some articles to help make your own conclusions. (See attachments 23, 24, 25, 26, and 27).
  - vii. Whether any new structures under 45-feet will be built between the existing Van Wezel and the future new PAC is unknown. This could significantly affect remaining water views from the Renaissance.
  - viii. If the proposed PAC parking will meet requirements (See attachment 9).
  - ix. Whether the City/VWF will honor the 1999 FEMA established flood zone AE or whether it would use the 2021 FEMA flood zone (See attachment 16).
8. **Options:** The VCE Committee discussed and considered a range of potential options homeowners and the BOD could consider if the City would to offer very advantageous concessions in exchange for possible modification of the existing VCE.

Below, **for information only**, are some of the committee's thoughts on possible future options. As noted in the beginning of this paper, no action will be taken by the Board regarding future actions until owners have been informed and then surveyed regarding their desires.

**VCE Committee Possible Future Options:**

a. **Enforce existing View Corridor Easement (No Modifications)**

i. **Advantages:**

1. Ensures the new PAC does not exceed height restrictions (90-feet plus FEMA height) in the existing Renaissance VCE.
2. Placement in the far northwest corner of the property minimizes northwesterly water views blocked by the new PAC and fly tower, compared to placement of the PAC south of that location. Placement in the northeast corner would be better for the Renaissance but the City has already approved the far northwest corner.

ii. **Disadvantages:**

1. The existing Easement does not define the word “structure”, and the new Performing Arts “Center”, does have multiple buildings clustered together as a “single structure” which individually might not comply with the Easement.
2. Only addresses height, does not address width and length (Massing) restrictions for existing or new PAC or other new Bayfront structures.
3. Does not give the Renaissance any control over the possible placement/location of a second new structure(s), if the current Van Wezel is demolished in the future.
4. Does not freeze current structure footprint, height or massing for existing structures.
5. Does not give the Renaissance any control over noise and/or light intrusion from the Bayfront property.
6. City might rescind its offer to have a Renaissance representative sit on the committee to determine the future fate of the current Van Wezel.
7. The City might challenge the current View Corridor Easement in court.

b. **Negotiate the existing View Corridor Easement with the following potential modifications:**

1. Allow for only 1 new structure (The new PAC) to be built west of Van Wezel Way on the far northwest corner of the Bayfront. (The border to this area would include the Bayfront property border (Current boat launch) to the north, existing Van Wezel Way service road to the east, and BLVD of the Arts to the south). This would be for a one-time modification for the fly tower only which adds another 22.8-feet in height, 60-feet wide (East/west direction), and 125-feet deep (North/south direction). In an email dated February 28, 2020, between Bay Foundation attorney Dan Bailey said to Renaissance attorney Stephen Thompson, “the City might be open to surrendering the right to build a second building

to a height up to 90 feet (Since the Orchestra has announced its intention to leave the Bayfront” (See attachment 8).

2. Do not allow for any modification to existing structures in the historical district beyond existing structure footprint, height or mass. This would address the current Easement lack of length and depth restrictions. Any demolished structures should be replaced with landscaping.
3. Do not allow for any new structure west of Van Wezel Way over 45-ft including FEMA flood elevation.
4. Add noise and light intrusion clauses to limit non-ambient noise and light intrusion from 11PM to 8 AM daily. (Noise regulations exist for other parks/City owned properties).
5. All street lights/lights on the Bayfront, or on streets surrounding the Bayfront should be night-sky compliant (Meaning they only shine downward and not into Renaissance windows, some lights on the Bayfront have already been replaced with night sky compliant lights).

**ii. Advantages:**

1. Does not allow any new structures to be built south of the proposed new PAC, or any new structures west of Van Wezel Way. This protects our most valuable westerly view. Improves our water views if the current Van Wezel is ever removed.
2. Does address width and length restrictions for new PAC or other new Bayfront structures.
3. Does give the Renaissance some control over the possible placement/location of any new structure(s), if the current Van Wezel is demolished in the future.
4. Does freeze current structure footprint and/or massing for existing structures in the historic southeast corner.
5. Does give the Renaissance some control over noise and light intrusion from the Bayfront property.
6. The VWF/City have offered to pay Renaissance legal fees for the revision/modification of the Easement.
7. The City staff is open to a member of the Renaissance sitting on the blue-ribbon committee to determine the future of the existing Van Wezel.
8. Provides maximum control of placement of the new PAC which maximizes Renaissance water views.
9. Must be legally binding.

**iii. Disadvantages:**

1. Allows for the additional 22.8-foot height, and extensive massing, 60-foot wide (East/west direction), and 125-foot deep (North/south direction) for the new PAC fly tower.
2. Would involve modifying the existing Easement.



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**9. Remember: If there is what the Board considers an advantageous offer by the City in exchange for the modification, the Board will send out a survey for owner input. This will determine whether there is significant majority agreement that the Board should enter into any negotiations with the City to amend our existing VCE.**

10. Additional sources of information can be seen at:

- a. Amended And Restated Declaration Of Condominium Of Renaissance I, A Condominium: CondoDocswithrecordedamendments2014.pdf (See attachment 19).
- b. (Bay Sarasota) [www.thebaysarasota.org](http://www.thebaysarasota.org)
- c. (Bay Sarasota) [www.thebaysarasota.org/from-master-plan-to-phase-1/](http://www.thebaysarasota.org/from-master-plan-to-phase-1/)
- d. (Bay Sarasota) [www.thebaysarasota.org/3-commonly-misunderstood-aspects-of-the-bay-park-phase-1/](http://www.thebaysarasota.org/3-commonly-misunderstood-aspects-of-the-bay-park-phase-1/)
- e. (Quay) [www.quaysarasota.com](http://www.quaysarasota.com)
- f. (Van Wezel Foundation) [vwfoundation.org/spac](http://vwfoundation.org/spac)
- g. (Sarasota Code/Ordinances)  
[https://library.municode.com/fl/sarasota/codes/code\\_of\\_ordinances?nodeId=PTIITHCO\\_CH11BUBURE](https://library.municode.com/fl/sarasota/codes/code_of_ordinances?nodeId=PTIITHCO_CH11BUBURE)

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