



City of Naples

City Council Chamber
735 Eighth Street South
Naples, Florida 34102

Planning Advisory Board Regular Meeting – November 8, 2007 – 8:30 a.m.

Vice Chairman Miller called the meeting to order and presided.

ROLL CALL ITEM 1

Present:

David Miller, Vice Chairman
Wafaa Assaad
David Ball
Ian Butler
James Hughes
Margaret Sulick
Kathleen McFadden, Alternate

Absent:

Richard Klaas, Chairman (excused)
Amy Taylor, School Board Rep. (non-voting)

Also Present:

Mireidy Hanson, Planner
Erica Goodwin, Planner
Brenda Blair, Technical Writing Specialist
Beverly Grady, Attorney for the City
Robin Singer, Planning Director
Janet McCracken, Community Services Analyst
Trevor Tibstra

Michael Wagner
James Krall
John Passidomo
Philip Krieg
Everett Thayer
Robert Metzger
Philip Francoeur

APPROVAL OF MINUTES ITEM 2

MOTION by Sulick to **APPROVE** the October 10, 2007, regular meeting minutes as amended: (Pg. 6, Para. 4 - **Member Sulick said she felt that granting a bar on the second story was in conflict with the zoning on Fifth Avenue and other areas of town.**) This motion was seconded by Ball and unanimously carried (Assaad-yes, Ball-yes, Butler-yes, Hughes-yes, Sulick-yes, McFadden-yes, Klaas-absent, Miller-yes).

CHANGES TO THE AGENDA ITEM 3

Planning staff noted that Items 4 and 5 would be continued to the December PAB meeting.

MOTION by Miller to **CONTINUE** Items 4 and 5 to the December PAB meeting; seconded by Butler and unanimously carried (Assaad-yes, Ball-yes, Butler-yes, Hughes-yes, Sulick-yes, McFadden-yes, Klaas-absent, Miller-yes).

CONTINUEDITEM 4

Public Hearing: Conditional Use 07-CU11

Petitioner: Taggart Naples 1, LLC

Agent: William Dempsey

Location: 852 1st Avenue South

Request for approval of a conditional use from Section 58-907(b) allow the purchase of an additional 8 units of residential density in the 'D' Downtown District.

CONTINUEDITEM 5

Public Hearing: Residential Impact Statement 07-RIS14

Petitioner: Taggart Naples 1, LLC

Agent: William Dempsey

Location: 852 1st Avenue South

Request for approval of a residential impact statement in conjunction with conditional use petition 07-CU11 above.

.....ITEM 6

Public Hearing: Variance Petition 07-V10

Petitioner: Trevor Tibstra

Location: 1620 Avion Place

A request for approval for a variance to allow an existing chickee shelter to remain and extend 5 feet over the rear property line in the R1-7.5 single family zoning district at 1620 Avion Place.

This being a quasi-judicial proceeding, Board Members offered ex parte disclosures to the effect that each had reviewed the documents provided, and had visited or were familiar with the site, except Members Hughes and Assaad who indicated no contact; in addition, Chairman Miller noted a conversation with the petitioner. Notary Public Brenda Blair administered an oath to those intending to offer testimony; all responded in the affirmative. Planner Mireidy Hanson reviewed the petition described above.

Petitioner Trevor Tibstra explained that he obtained City Council support at its October 3 meeting to maintain the chickee at its current location through the variance petition process. He confirmed concurrence with staff's recommendation that the approval be conditioned on removal of the chickee should the dock be removed or should maintenance to the chickee exceed 50% of its value.

Petitioner Tibstra confirmed for Chairman Miller that the chickee does not block the view of any of his neighbors; Ronald Soulard, a resident across the street, submitted a letter in support of the petition; in addition, the meeting material included correspondence in support of the petition from all of the neighbors.

Public Input: (8:38 a.m.) **Everett Thayer, 1690 Avion Place**, noted that the chickee is visible from his property and those individuals he knew that had previously objected no longer felt this way.

MOTION by Hughes to APPROVE Variance Petition 07-V10; seconded by McFadden and carried 6-1 (Sulick-yes, Ball-no, Hughes-yes, Assaad-yes, Butler-yes, McFadden-yes, Klaas-absent, Miller-yes).

This item will be heard by City Council on December 5, 2007.

Prior to the vote, Planning Director Robin Singer requested that the staff report be entered into the record (Attachment 3).

.....ITEM 7

Public Hearing: Conditional Use Petition 07-CU12

Petitioner: Sarah Britton
Agent: Michael Wagner
Location: 656 Palm Circle West

Request for conditional use approval, pursuant to Section 56-91(3) to allow the construction of a 448 square foot detached structure accessory to the existing single-family residence located at 656 Palm Circle West.

Notary Public Brenda Blair administered an oath to those intending to offer testimony; all responded in the affirmative. Later in the meeting, Board Members offered ex parte disclosures to the effect that each had reviewed the documents provided, and had visited or were familiar with the site, except Members Hughes and Assaad who indicated no contact. Planner Erica Goodwin reviewed the petition described above.

Attorney Michael Wagner, representing the petitioner, explained that the 14-foot-high, 448 square foot personal fitness facility will be positioned adjacent to a new swimming pool. The Old Florida style architecture mirrors the residence with plank siding and white metal roof. All HVAC (heating, ventilation, and air conditioning) and pool equipment will be contained within the setbacks and a privacy wall will be constructed to shield pool equipment noise. No lights or windows are planned for the north side of the building and the elevation of the new pool will approximately remain at the current level of the existing pool deck. The finished floor elevation will comply with the Base Flood Elevation (BFE) and existing property line landscape buffers will be supplemented with hedges of eight to ten feet in height.

During discussion, Attorney Wagner confirmed that the privacy fence will be reduced in order to accommodate maintenance activities within the setback; pool equipment measured by the pool contractor determined that it is however outside the setback area. Planner Goodwin confirmed that guesthouses are allowed but cannot be rented. Chairman Miller read the following correspondence from neighbor Gary Carlson: "We are out of town in Colorado but were just made aware a proposed gym on the lot line west of our house. We did not get a letter, it must have gotten lost in transit. The gym looks too close and may impede our view. Can they move the structure further to the west. In addition can they screen it well with landscaping. Parts of their yard are screened well now." Chairman Miller noted that he personally observed from the petitioner's backyard that the structure will block the neighbor's view and questioned whether it could indeed be moved as suggested. Attorney Wagner explained that the structure is to be positioned 20 feet from the petitioner's master bedroom so as not to obstruct views, but noted that the structure could possibly be shortened or moved a few feet to the west in the approximate location of the existing spa, which he said he felt, would not impede the view of the lake. Member Assaad commented that the residence could be demolished and replaced with a megahouse (a home which is built to the allowable limit of lot coverage) and that the petitioner can legally construct the gym in the proposed location although a gesture of reducing the size or moving the structure farther westward should be considered.

Planner Goodwin explained that Section 56-91 of the Code of Ordinances states, in part: "A guest unit limited to one habitable story may be permitted in the R1-10 zoning district, on lots

less than 30,000 square feet in size, through the conditional use process, provided that the following additional criteria are met:

- a. The proposed lot must contain 175 percent of the required minimum lot size for the zoning district in which it is located.
- b. No guest unit may exceed 450 square feet gross floor area.
- c. For the purpose of determining minimum side yard setback requirements of Sections 58-116, 58-146, and 58-176, side yards shall apply to the first 15 feet of vertical height measured from average grade of the finished lot."

Planner Goodwin confirmed that the petitioner had met all of the criteria for granting the conditional use petition.

Public Input: (8:53 a.m.) None.

Chairman Miller explained that he would not support the request since one of his goals is to do no harm to neighbors; the proposed gym will however significantly affect the neighbors' view as well as their property value. City Attorney Beverly Grady clarified for Member Butler that the petition could be approved or approved with conditions; it could also be denied if it did not meet the criteria for granting a conditional use permit.

MOTION by Ball to APPROVE Conditional Use Petition 07-CUI2; seconded by Butler and carried 6-1 (Hughes-yes, Sulick-yes, Assaad-yes, Ball-yes, Butler-yes, McFadden-yes, Klaas-absent, Miller-no).

This item will be heard by City Council on December 5, 2007.

During the vote, Member Sulick recommended reducing the size of the project in consideration of the neighbors. Member Butler concurred, suggesting that an effort be made to differentiate the orientation in consideration of the neighbors.

.....**ITEM 8**

Public Hearing: General Development and Site Plan 07-GDSP1

Petitioner: Moorings Park

Agent: James Krall, P.E., Davidson Engineering

Location: 120 Moorings Park Drive

Request for approval of a general development site plan for Moorings Park located on approximately 82.94 acres.

Chairman Miller noted that he would abstain from voting since he is an associate member of Moorings Park. (See Attachment 1, Form 8B, Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers). This being a quasi-judicial proceeding, Board Members offered ex parte disclosures to the effect that each had reviewed the documents provided, and had visited or were familiar with the site except Members McFadden, Hughes, and Assaad who indicated no contact. Notary Public Brenda Blair administered an oath to those intending to offer testimony; all responded in the affirmative. Planner Mireidy Hanson explained that this request is to construct an operations center and renovate the chateau building; staff recommends approval since the petitioner has met the criteria for granting approval. (It is noted for the record that copies of exhibits pertaining to this petition are contained in the file for this meeting in the City Clerk's Office.)

Engineer James Krall, representing the petitioner, explained that the operations center is approximately 18,000 square feet in size which includes the financial, maintenance, laundry, and administration facilities. He indicated the following on the site drawings: the subject buildings,

stormwater retention areas, two buildings currently undergoing construction, landscaping, parking, access roads, fire apparatus access, fire hydrant connections, relocation of an existing backflow preventer, and relocated City raw water well. He further noted that the stormwater plans were modified and subsequently approved in July by the South Florida Water Management District (SFWMD) which allowed excavation of one of the retention lakes and relocation of the aforementioned City raw water well.

Architect Philip Krieg noted that his firm had done most of the architectural work at Moorings Park since 1996. He clarified that the operations center will exceed setback requirements; the architectural style will have the same slate green roof tile, sloped roof, dormers, and gables used throughout the campus; and landscaping will be tripled along Goodlette-Frank Road rendering the operations center invisible from the road. The additional parking will be asphalt and all impervious surfaces have been incorporated into the new retention lake calculations, including future development of the remaining parcel.

With regard to the chateau building renovations, Architect Krieg explained that Hurricane Wilma destroyed the second floor screened lanai around the pool and pool deck; it was subsequently determined that due to the success of the therapy department, the pool will be removed and the second floor will be enclosed (approximately 1,300 square feet) in order to expand the therapy department and finished in the same style using the same aforementioned building materials.

Public Input: (9:12 a.m.) None.

MOTION by Sulick to ***APPROVE*** General Development and Site Plan 07-GDSPI; seconded by McFadden and carried 6-0-1 (Ball-yes, Sulick-yes, Hughes-yes, Assaad-yes, McFadden-yes, Klaas-absent, Miller-abstain, Butler-yes). (See Attachment 1, Form 8B, Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers).

This item will be heard by City Council on December 5, 2007.

.....ITEM 9

Public Hearing: Voluntary Annexation 07-AX2

Petitioner: Hole In The Wall Golf Club, Inc.

Agent: John Passidomo

Location: 3880 Goodlette Road North

Request for approval of a voluntary annexation of approximately 204.19 acres known as Hole in the Wall Golf Club.

Member Sulick noted that she would abstain from voting since she is a member of the Hole In The Wall Golf Club. (See Attachment 2, Form 8B, Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers). (It is noted for the record that copies of exhibits pertaining to this petition are contained in the file for this meeting in the City Clerk's Office.)

Planning Director Robin Singer confirmed that this item is legislative and does not require the swearing of witnesses. She then distributed an anticipated general fund impact summary (Attachment 4). She explained that although State Statutes do not require local planning agency review, City Council had requested PAB input. She then noted that the property is located on the east side of Goodlette-Frank Road north of Golden Gate Parkway and since this is a voluntary annexation, 100% of the property owners must consent. In this case, there is one owner, the Hole

in the Wall Golf Club, Inc., a Florida not-for-profit corporation. An urban services report is not required for voluntary annexations. During preparation of the maps, staff determined that there were two small corner parcels (noted on the boundary survey displayed) within the site that had been excluded from the Royal Poinciana Golf Club annexation but still under that entity's ownership. The intent is for Royal Poinciana to become a party to the Hole In The Wall annexation which would allow it to remain a voluntary annexation. She further noted that the petitioner is a current customer of City water, sewer, and reclaimed water services, and that stormwater is self-contained. Other City departmental comments included a notation that the clubhouse had recently undergone renovations but that Collier County is currently conducting inspections. The Community Services Department indicated that any conservation areas on the property will be addressed as needed. The property is within the 2.5 mile service radius of City Fire Station 2 (26th Avenue North) therefore no negative impact to the City's fire service rating is anticipated, however, the North Naples Fire District will continue to service this property until such time as its contract expires (five years following annexation). This property contains the golf course, clubhouse, maintenance facilities, and no residential uses, therefore, no additional personnel or service impacts are anticipated for Planning, Police, Code Enforcement, Finance, or internal service providers within city government; staff recommends approval, Planning Director Singer concluded.

Attorney John Passidomo, representing the petitioner, displayed an excerpt of the City's zoning map depicting the subject property and surrounding properties. He confirmed that there are no plans to develop the approximate 40 acres of undeveloped land in the southeast quadrant. He confirmed that final inspections of the clubhouse are currently underway; however, the information provided to the City in January did not reflect the current assessed value of the clubhouse (\$7-million) since the property records showed no improvements. He then provided the following background information. The Hole In The Wall Golf Club was founded in 1957, becoming the first private golf club in Collier County, situated in the unimproved area on the east side of Goodlette-Frank Road, south and west of the Royal Poinciana Golf Club, and north of the Wilderness Country Club. At that time, he added, trains ran alongside unimproved Goodlette-Frank Road, which is now a vacated railroad right-of-way. In 1963, the Hole In The Wall Golf Club entered into well site lease agreements with the City which continue to be in force; in 1984, the Club entered into other agreements with the City which also continue for discharge of excess reclaimed City water onto the subject property. Currently two-thirds of the 320 club members are City residents. There is a pending petition for a comprehensive plan amendment to change the future land use designation to "PS" Public Service with a golf course as a conditional use; this petition will move forward to City Council in December as a voluntary annexation without any conditions, Attorney Passidomo explained.

Mr. Passidomo then noted the issue previously mentioned by Planning Director Singer concerning the two small corner parcels within the boundaries that were excluded from the Royal Poinciana Golf Club annexation, explaining that this had involved a property exchange to facilitate relocation of two holes on the golf course. Representatives of Hole In The Wall received concurrence from Royal Poinciana to join the annexation so that no enclave would be created due to these two parcels.

Planning Director Singer confirmed that the value of the new clubhouse is not included in the current assessments (Attachment 4) since it has not yet received a certificate of occupancy (CO);

the tax benefit to the City will therefore increase once the assessment is incorporated into the documentation. In response to Member Ball, Attorney Passidomo explained that Hole In The Wall Golf Club has had ongoing lease agreements with the City for water and reclaimed water; the only issue before the PAB and City Council is however the annexation; Planning Director Singer confirmed that the City reviews these lease agreements annually and renegotiates them at five year intervals.

Public Input: (9:34 a.m.) **Robert Metzger, Assistant Fire Chief, North Naples Fire Control and Rescue District**, expressed concern for the provision of emergency services. His district, he said, has provided this service for a considerable length of time and is included in the district budget, and evaluated as part of the hazardous assessment for risks in the responding district. If the subject petition is approved, the District will continue to provide emergency services over the next five years, Chief Metzger added, but also pointed out that the PAB had learned during its recent review of the Collier Park of Commerce annexation that there were significant deficiencies in how the City was planning for provision of emergency services to areas previously annexed, namely the Estuary and Bears Paw, and that there had been no plans for expansion of City services thereafter. He said that while it is understandable that the property owners would request annexation, they should also receive assurance of the provision of the same or better level of service once the transition has been completed. He further noted that this would present a financial hardship on the North Naples District if the property in question were annexed.

In response to Member Assaad, Mr. Metzger confirmed that State Statutes requires the District to continue servicing the property over the next five years following annexation; if requested, the District would consider renewing the contract to continue service. Attorney Passidomo confirmed for Member Hughes that the petitioner had taken North Naples fire district concerns into consideration.

In response to Chairman Miller, Planning Director Singer explained that a general annexation requires the consent of at least 50% of the property owners; a voluntary annexation requires the consent of 100% of the property owners. If Royal Poinciana joins the petition, the annexation will be voluntary. The process would be slightly different if Royal Poinciana does not join the petition, including the requirement for an urban services report, she noted. Ms. Singer further explained that the City's Police, Fire, and Emergency Services Department foresaw no problems with providing service to this property, noting that the City currently services Royal Poinciana which is of greater distance from Fire Station 2 than the subject property which itself is within a 2.5 mile radius. In response to Member Ball, Planning Director Singer confirmed that the 25% reduction in utility rates if annexation is approved is reflected in the spreadsheet (Attachment 4).

Member Assaad said he felt that the service provision is by agreement and the process of adjusting City boundaries is a continuing process which can be dealt with through agreements, citing an issue some 20 years before wherein the Vineyards development, split between East and North Naples Fire Districts, had annexed fully into North Naples even though that district could not provide service at that time.

MOTION by Assaad to RECOMMEND TO CITY COUNCIL Voluntary Annexation 07-AX2; seconded by Hughes and carried 6-0-1 (Hughes-yes, Ball-yes, Assaad-yes, Butler-yes, Sulick-abstain, McFadden-yes, Klaas-absent,

Miller-yes). (See Attachment 2, Form 8B, Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers).

This item will be heard by City Council on December 5, 2007.

.....ITEM 10

Public Hearing: Text Amendment 07-T12

Petitioner: City of Naples

Request to amend Section 46-42, Public Art, to include the Fifth Avenue South Special Overlay District in the areas subject to the requirement, to clarify the location requirements for installations, to reduce the minimum square footage required to allow the on-site installation of public art and to amend other sections for clarification.

Planning Director Robin Singer reviewed the proposed changes as outlined in the staff report (Attachment 5). She confirmed that partial release of funds will be allowed during construction in order for petitioners to contract with artists and commence remuneration; in addition, in response to a number of petitioners, the limit has been reduced from \$10,000 to \$5,000 for the required payment into the art fund instead of placing artwork onsite.

Community Services Analyst Janet McCracken explained that there is still a matter to be resolved with the text since the last sentence in Subsection 5 states: "Remaining funds of the property owner or developer deposited with the Finance Department shall be released when a Certificate of Occupancy (CO) has been issued and confirmation has been received regarding the value of the installation." As an example, Ms. McCracken explained that the provision would cause difficulty the Naples Yacht Club project since delivery of a cupola, which is a portion of the artwork, is anticipated in the near future and payment for the cupola is expected; additionally, public art may be completed well before a CO is issued or construction is completed. She therefore recommended revising the sentence to read: "Funds of the property owner or developer deposited with the Finance Department shall be released after City staff confirms that the completed and/or installed artwork conforms to the original public art plan as approved by the Public Art Advisory Committee (PAAC) and confirmation has been received regarding the value of the installation."

Public Input: (9:56 a.m.) **Philip Francoeur, Commodore, Naples Yacht Club**, noted that the weathervane (part of the public art project at his facility) had been received and the invoice will follow within the next two days and completion of the cupola is anticipated in approximately 30 days; however, the dockmaster's office has not yet been built. Partial distribution of funds is therefore being sought since a 50% deposit of the cost of the cupola is required and 100% of the cost of the weathervane is required following its completion. He concurred with the proposed ordinance changes delineated by Ms. McCracken.

Planning Director Singer confirmed that the proposed change to the last sentence in Subsection 5 would be incorporated and confirmed that the Community Services Department administers the Public Art Fund. Member Sulick noted that this ordinance only excludes single family residences, however, she recommended further exclusions such as Public Service zoned areas which includes churches as well as private clubs, since she said she believed it exceeds the scope of what the ordinance should have been, also noting her further belief that the funding for art is an impact fee on construction. Ms. Singer confirmed that these were the parameters understood and approved by City Council the year before; she suggested against excluding the entire Public Service area since it encompasses many areas both public and private, and excludes tax-exempt

instead of not-for profit organizations. Members Miller and McFadden noted that the PAB had previously voted against the entire ordinance.

Member Sulick proffered a motion recommending the exclusion of not-for-profit and tax-exempt organizations such as churches and private clubs, however, additional discussion ensued. Planning Director Singer suggested that the PAB recommend approval with additional changes, excluding specific entities instead of all uses within the "PS" Public Service District; staff will work with the City Attorney on the appropriate language, she added. City Attorney Beverly Grady confirmed that one of the "whereas" clauses in the ordinance for City Council is for the PAB recommendation which could include a list of exclusions. Member Hughes suggested approving the text amendment as presented then proffer a second motion to include specifics; however, Member Sulick disagreed, expressing concern that the Council should be cognizant of the PAB's additional recommendations. Planning Director Singer suggested instead listing the types of organizations to be excluded such as churches, schools, or private clubs. Member Assaad noted that all entities are subject to the same requirements for property maintenance and therefore questioned the exclusion of any property. Community Services Analyst McCracken concurred that the original intent of the program was to bring public art into the community citywide without any exclusions.

Member Sulick noted that when the PAB originally heard this petition she expressed the view that it represented an impact fee and property owners may prefer spending on landscaping instead of art. She also noted that most developers provide good architecture which is overseen by the Design Review Board (DRB). Member McFadden noted that the PAB previously denied the public art ordinance, however, City Council overruled its decision; she said she felt that the ordinance under review is yet more expansive than when the PAB first reviewed it since she was unaware that churches and other public service providers had been included. Member Sulick noted that it had been her understanding that it applied only to commercial development and the city government.

Member Hughes noted that he had not been on the Board when this item was first reviewed and suggested tabling it for further discussion. Planning Director Singer recommended instead moving it forward with PAB recommendations since two property owners, each with pending projects on parcels under 10,000 square feet, expressed the desire for art instead of paying into the fund.

Member Sulick read the following from the ordinance (Page 2, Para. C): "...visibility, public art may be placed in the required front, side or rear yard..."; she questioned whether there would be a determination of the extent to which the art must be within the required yard. Planning Director Singer said that there was no specification in this regard, other than requiring that the art will be reviewed for safety and visibility hazards. Member Sulick reiterated her suggestion that City Council consider more strictly defining the applicability of this ordinance to both tax exempt and nonprofit entities. In response to Member Hughes, Mr. Francoeur (public speaker) confirmed that the text amendment resolves the Yacht Club's payment issues. He also noted that ultimately a weathervane was selected by the Club due to the difficulty in placing artwork on private property that is visible to the public. He also noted that City staff had reviewed Sarasota's public art ordinance which restricts public art to commercial and municipal properties in the downtown area only; the Naples ordinance is for any organization within the entire City of Naples. City Attorney Grady recommended the language for the motion (see below); Member Sulick

concurrent. Planning Director Singer clarified for Member Ball that the cost for payment into the public art fund in lieu of artwork is \$1.00 per square foot of the entire parcel and that it includes multifamily property.

MOTION by Sulick to APPROVE Text Amendment 07-T12 with a further recommendation that the applicability section be more strictly defined to consider exclusion of tax exempt or not-for-profit uses. This motion was seconded by Hughes and carried 6-1 (Butler-yes, Sulick-yes, Hughes-yes, Ball-yes, Assaad-no, McFadden-yes, Klaas-absent, Miller-yes).

This item will be heard by City Council on December 5, 2007.

Member Ball suggested limiting public art to commercial properties and Chairman Miller noted that the PAB had never contemplated tax-exempt properties being subject to the public art ordinance. Member Hughes suggested reconsideration of the motion in order to restrict applicability to commercial properties; however, City Attorney Grady suggested that the PAB make another recommendation to further revise the ordinance in this regard. Planning Director Singer confirmed that this would exclude multifamily. During further discussion, Member Assaad cautioned against hurriedly drafting language that could cause future unforeseen consequences and suggested that a motion to reconsider be limited to staff's proposed changes; if further discussion is desired, it could be scheduled for a later date. Chairman Miller however noted that the motion had already been passed (see above) and recommended discussing Member Ball's motion (see below) at a future workshop. Member Sulick concurred, noting that there were three new PAB Members and that the PAB might in fact make a further recommendation to City Council in the future. Member Ball called for the vote.

MOTION by Ball to FURTHER EXCLUDE residential properties from the applicability of the public art fund requirement. This motion was seconded by Hughes and failed 3-4 (Butler-no, Sulick-no, Hughes-yes, Ball-yes, Assaad-no, Klaas-absent, Miller-no, McFadden-yes).

During the vote, Member Butler said that although he did not disagree, more discussion is warranted. Planning Director Singer agreed to recommend to City Council that the PAB conduct a workshop discussion on this item.

STAFF CORRESPONDENCE.....ITEM 11

Planning Director Robin Singer suggested the PAB consider a June rather than a July recess during the time when City Council is not in session since Council will not hear petitions from either month until August. She further noted that staff is considering presenting PAB items at Council's second meeting of the month instead of the first since there are only two days for staff to prepare the necessary documentation for the first meeting of the month.

ADJOURNMENT
10:34 a.m.

David Miller, Chairman

Robin Singer, Community Development Director

Minutes prepared by:

Brenda A. Blair, Technical Writing Specialist

Minutes Approved: December 12, 2007

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS	
LAST NAME--FIRST NAME--MIDDLE NAME <i>MILLER, DAVID STEVENS</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>PLANNING ADVISORY BOARD</i>
MAILING ADDRESS <i>710 STARBOARD DR.</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE OR WHICH I SERVE IS A UNIT OF:
CITY <i>NAPLES</i>	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
COUNTY <i>COLLIER</i>	NAME OF POLITICAL SUBDIVISION: <i>CITY OF NAPLES - FLORIDA</i>
DATE ON WHICH VOTE OCCURRED <i>11/2/07</i>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

* You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, DAVID MILLER, hereby disclose that on 11/8/07, 20

(a) A measure came or will come before my agency which (check one)

- Inured to my special private gain or loss;
- Inured to the special gain or loss of my business associate, _____;
- Inured to the special gain or loss of my relative, _____;
- Inured to the special gain or loss of _____, by whom I am retained; or
- Inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

I AM AN ASSOCIATE MEMBER OF MUDRINGS PARTY

11/8/07
Date Filed

DAVID MILLER
Signature 

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS	
LAST NAME—FIRST NAME—MIDDLE NAME <i>SWLICK MARGARET S.</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>NAPLES Planning Advisory Bd.</i>
MAILING ADDRESS <i>3295 Fr. Charles Dr</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY <i>NAPLES FL</i> COUNTY <i>Collier</i>	NAME OF POLITICAL SUBDIVISION <i>CITY OF NAPLES</i>
DATE ON WHICH VOTE OCCURRED <i>11-8-07</i>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S.; and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Margaret Sulick, hereby disclose that on Nov. 8, 2007.

(a) A measure came or will come before my agency which (check one)

- Inured to my special private gain or loss;
- Inured to the special gain or loss of my business associate, _____;
- Inured to the special gain or loss of my relative, _____;
- Inured to the special gain or loss of _____, by whom I am retained; or
- Inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

I am a member of table in this Hall.

Nov. 8, 2007
Date Filed

Margaret Sulick
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

Meeting of 11/8/07
Agenda Item No. 7

CITY OF NAPLES

STAFF REPORT

To: Planning Advisory Board
From: Planning Department
Subject: Conditional Use Petition No. 07-CU12
Petitioner: Michael J. Wagner, Sr.
Date: October 29, 2007

REQUEST: This is a request for conditional use approval, pursuant to Section 56-91(3) to allow the construction of a 448 square foot detached structure accessory to the existing Single Family residence located at 656 Palm Circle West.

- **STAFF RECOMMENDATION:** Staff recommends approval of Conditional Use Petition 07-CU12 based on the findings that the petition meets the guidelines and standards of Section 46-34(d) for conditional use approval, subject to the following condition:
 - No lights will be installed on the North Elevation of the accessory structure.
- **LOCATION:** 656 Palm Circle West.
- **SIZE OF PARCEL:** 21,084 Square Feet; 0.48 Acres
- **EXISTING LAND USE:** Single Family Residence
- **CURRENT ZONING:** R1-10, Residence District
- **PREVIOUS ACTION:** None
- **PENDING AND/OR SUBSEQUENT ACTION:** The Planning Advisory Board (PAB) will hold a public hearing on this petition at its meeting on Thursday, November 8, 2007. At the close of the public hearing, the PAB will make a recommendation to the City Council. The City Council will consider the PAB's recommendation at its meeting on December 5, 2007, with final action by resolution.
- **COMPREHENSIVE PLAN:** This property is designated as Low Density Residential on the Future Land Use Map of the Comprehensive Plan.

• **SURROUNDING PROPERTIES:**

	North	South	East	West
Zoning	R1-10, Residential District	Lake	R1-10 Residential District	R1-10 Residential District
Land Use	Single Family Residence	Lake	Single Family Residence	Single Family Residence

- **PROPOSED DEVELOPMENT:** The petitioner requests conditional use approval to construct a 448 square foot detached structure accessory to the existing Single Family residence located at 656 Palm Circle West.

Aerial of Subject Property



GUIDELINES AND STANDARDS: Code Section 56-91(3) provides the following:

(3) A guest unit limited to 1 habitable story may be permitted in R1-15A, R1-15, and R1-10 zoning districts, on lots less than 30,000 square feet in size, through the conditional use process according to section 46-34, provided the following additional criteria are met:

- a. The proposed lot must contain 175 percent of the required minimum lot size for the zoning district in which it is located.

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Page 3

- The minimum lot size for the R1-10, Residence District is 10,000 square feet. This property is 21,084 square feet, 210% of the minimum lot size.
- b. No guest unit may exceed 450 square feet gross floor area.
 - The proposed accessory structure is 448 square feet.
- c. For the purpose of determining minimum side yard setback requirements of sections 58-116, 58-146, and 58-176, side yards shall apply to the first 15 feet of vertical height measured from average grade of the finished lot.
 - The location of the proposed structure complies with all setback requirements for the R1-10, Residence District.
- **DEPARTMENTAL REVIEW:** Staff comments have been attached for review.
 - According to the survey provided, there are no Utility Easements in the proposed location of the accessory structure.
- **ANALYSIS:**
The petitioner's request to construct a 448 square foot detached structure accessory to the existing Single Family residence located at 656 Palm Circle West satisfies the standards of approval of a conditional use, as stated in Code Section 46-34.

In review of the criteria for conditional use approval, the requested construction of a tennis court meets the standards as follows:

(d) *Standards for approval.* In its deliberations concerning the granting of a conditional use, the planning advisory board and the city council shall carefully consider the following guidelines and standards:

(1) Ingress and egress to the subject property and the proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic generation flow and control, and access in case of fire or catastrophe, shall be adequate and not potentially detrimental to existing or anticipated uses in the vicinity and particularly not detrimental to property immediately adjacent to the subject site.

Finding: The construction of this accessory structure will not negatively affect ingress and/or egress to the property.

(2) Off-street parking and loading areas, where required or requested by the property owner, shall be adequate and well-designed, and relate well, in terms of proximity, access and the like, to the uses intended to be serviced, with particular attention to the items listed in subsection (d)(1) of this section and the smoke, noise, glare, dust, vibrations, fumes, pollution or odor effects related to the vehicular use area or the conditional use,

and such shall not be detrimental to the adjoining properties in the general area.

Finding: This accessory structure will not generate any more vehicles than are currently using the driveway of the single family residence on the property.

(3) Refuse and service areas, with particular reference to the items listed in subsections (d)(1) and (2) of this section, shall be adequately screened so as not to be visible from adjacent properties or a public right-of-way and shall be located in such a way as not to be a nuisance, by virtue of smoke, noise, glare and the like, to adjacent properties.

Finding: Not applicable.

(4) Utilities, whether public or private, shall be adequate and not detrimental with reference to location, availability, adequacy and compatibility.

Finding: All proposed utilities are adequate.

(5) Screening, buffering or separation of any nuisance or hazardous feature, with reference to type, dimensions and character, shall be fully and clearly represented on the submitted plans and shall be adequate to protect adjacent properties.

Finding: The petitioner proposes to plant numerous Chinese Fan Palms, as well as an 8'-10' hedge along the North property line to conceal the structure from the neighbors view. The proposed landscape plan appears to provide adequate screening of the accessory structure.

(6) Proposed signs and exterior lighting shall be considered with reference to glare, traffic safety and compatibility and harmony with surrounding properties and shall be determined to be adequate, safe and not detrimental or a nuisance to adjacent properties.

Finding: This petition for conditional use does not propose signage of any kind. The petitioner has not shown proposed lighting on the plans submitted. Per the 2005 National Electric Code, NFPA 70/NEC 2005, the petitioner will be required to add a light at the entrance door to the accessory structure, as well as one above the sliding glass doors on the South Elevation. Staff recommends that no lights be added to the North Elevation of the building.

(7) A determination shall be made that the proposed development will not hinder development of the nearby vacant properties with a permitted use in the subject zone district.

Finding: All properties adjacent to this site have been built upon. The requested activity will not hinder development of the nearby properties.

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Page 5

(8) The land and buildings which are involved shall be adequate, in terms of size, shape, type of building and the like, to ensure compatibility with the proposed conditional use.

Finding: The land and/or buildings that are involved are of adequate size, shape, and type for the proposed activity.

(9) The proposed development shall be compatible and appropriate with respect to adjacent properties and other property in the district and geographic area.

Finding: A 448 square foot gym as an accessory to a single family residence is an appropriate use of this R1-10, Residential District lot.

- **FINDINGS:** The petitioner has indicated on the plans and documents submitted for this conditional use that this accessory structure will be used as a gym. However, should the use of the structure change in the future, the petitioner is aware that, per Section 56-9(c)(1), leasing or renting the guest unit shall constitute a violation of the zoning ordinance.

Sec. 56-91. Guest units.

(c) *Use of guest units.*

(1) No guest unit may be used for commercial purposes except as provided for in this subsection. Leasing or renting a guest unit except in conformance with this section shall constitute a violation of the zoning ordinance. Similarly, if a main residence is leased or rented, a guest unit accessory to it may not be occupied by the property owner or leased separately from the principal dwelling since that would constitute unlawful use of single-family zoned property for 2-family dwelling purposes.

- **PUBLIC NOTIFICATION:** On October 22, 2007 a total of 57 letters were mailed to all property owners located within 500 feet of the subject property. To date there have been no responses received regarding this petition.

Respectfully submitted,



Erica Goodwin
Planner II

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Attachment "A"

DEPARTMENTAL REVIEW

Name of Reviewer: Bob Middleton
Date: October 18, 2007
Utilities Administration Department
Location:

Petition No. 07-CU12 (07-00000100)
Petitioner: SARAH K. BRITTON

656 PALM CIR W

CITY

PLACE AN X IN THE TEXT BOX BESIDE THE APPLICABLE STATEMENT:

- Not applicable to this department.
- No objection to request is submitted.
- Recommend conditional approval with stipulations as follows:
- Recommend denial for the following reasons:

Comments:

No objection, as long as there is no encroachment into utility easements.

Attachment "B"

DEPARTMENTAL REVIEW

Name of Reviewer: Chelata Canessa Petition No. 07-CU12 (07-00000100)
Date: 10/17/07 Petitioner: SARAH K. BRITTON
Dept: Fmsa

Location:
PZAD

PLACE AN X IN THE TEXT BOX BESIDE THE APPLICABLE STATEMENT.

- Not applicable to this department.
- No objection to request as submitted.
- Recommend conditional approval with stipulations as follows:

This property is located in a Special Flood Hazard Area with a BFE of AE 11 NAVD. The proposed structure will have no portion below the BFE.

- Recommend denial for the following reasons:

Comments:

City of Naples, Florida
All Fund Summary- Annexation
Hole in the Wall

	1	2	3	4	5	10	15	20
	Change FY08-09	Change FY09-10	Change FY10-11	Change FY11-12	Change FY12-13	Change FY17-18	Change FY22-23	Change FY27-28
Net General Fund Impact	2,546	2,634	2,725	2,820	7,636	9,918	13,537	18,792
Net Utility Fund Impact	2,298	2,367	2,438	2,511	2,586	2,511	2,664	2,826
Net Stormwater Impact	1,400	1,400	1,400	1,400	1,400	1,400	1,400	1,400
Net Water Sewer Impact	(964)	(993)	(1,023)	(1,053)	(1,085)	(1,258)	(1,458)	(1,690)
Net Street Fund Impact	0	0	0	0	0	0	0	0
Impact All funds	5,280	5,408	5,540	5,678	10,537	12,571	16,143	21,328
Cumulative Impact	5,280	10,688	16,228	21,906	32,443	90,887	164,402	259,899



Memo

Community Development

Building and Zoning • Planning • GIS

ITEM 10

TO: Planning Advisory Board
FROM: Robin D. Singer, Community Development Director
DATE: November 2, 2007
SUBJECT: Text Amendment 07-T12, Public Art

On November 15, 2006 the City adopted Ordinance 06-11447 which created a new public art program. Through this program private developments are required to either contribute to the public art fund or place a work of art on their property in a location that can be enjoyed by the general public. After a year of implementation staff and the Public Art Advisory Committee have identified some ways in which the ordinance could be improved.

The threshold for projects that must participate is the same as those projects that must submit for design review. While this works well in most aspects, it inadvertently excluded projects in the Fifth Avenue South Special Overlay District which are submitted to the Fifth Avenue South Action Committee rather than the Design Review Board. The proposed amendment will correct that so that projects on 5th Avenue South will also be required to comply.

Sometimes the best location for public art is in a required yard. This amendment will allow artwork to encroach on required yards provided it does not present a safety or visibility hazard.

Clarification is provided regarding the use of funds collected on public projects.

The ordinance requires that funds equal to the fee and value of the installation be deposited at the time the building permit for the primary structure is issued. The amendment will provide for the partial release of funds to commission the work of art upon the submission of documentation that the work is being done.

The ordinance also set a 10,000 square foot limit under which projects would be required to remit payment into the fund rather than install a work of art on the subject property. This was done with the expectation that the art work installed on these smaller projects would have less of an impact than if the funds were collected and put towards a larger installment on public property. There have been projects under the 10,000 square foot threshold where the petitioners indicated an interest in placing works of art on their properties. Because of the nature of their business they felt they could gain support for a work of art on their properties but their benefactors would be less likely to donate to a fund that does not directly benefit to their organization. Since the PAAC will be reviewing the appropriateness of any installment meant to satisfy this requirement, there should not be a problem with lowering or eliminating this limit.