



City of Naples

City Council Chamber
735 Eighth Street South
Naples, Florida 34102

Planning Advisory Board Regular Meeting – May 11, 2005 – 8:30 a.m.

Chairman Price called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Gary Price, Chairman
Falconer Jones, Vice Chairman
James Black
David Miller
Samuel Noe
Gene Scanlan
James Siedel

Absent:

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

Also Present:

Robin Singer, Community Development Director
Kerry Nielson, Planner
Brenda Blair, Recording Specialist
Bob Pence, Utilities Maintenance Technician
David Lykins, Community Services Director
Dan Mercer, Public Works Director
Tony McIlwain, Planner
Stephen Olmsted, Planning Manager
Bruce Anderson, Attorney for the City
David Corban
Christopher Thornton
John Passidomo
Richard Yovanovich
Richard Woodruff
Regina Driesbach
Margaret Curry
John Ribes
Reed Jarvey
Other interested citizens and visitors.

Chairman Price presented Vice Chairman Jones with a plaque recognizing him for his service to the City.

APPROVAL OF MINUTESITEM 2

MOTION by Black to ***APPROVE*** the March 10, 2004, workshop meeting minutes as submitted; seconded by Jones and carried without objection (Klaas absent).

MOTION by Noe to ***APPROVE*** the February 9, 2005, regular meeting minutes as submitted; seconded by Miller and carried without objection (Klaas absent).

MOTION by Miller to ***APPROVE*** March 9, 2005, joint workshop with the Community Services Advisory Board meeting minutes as submitted; seconded by Noe and carried without objection (Klaas absent).

SELECTION OF A CHAIRMAN AND VICE CHAIRMANITEM 3

MOTION by Noe to ***REAPPOINT*** Gary Price as Chairman; seconded by Siedel; nominations closed by Black. This motion was carried without objection (Klaas absent).

MOTION by Black to ***REAPPOINT*** Falconer Jones as Vice Chairman; seconded by Noe; nominations closed by Black. This motion was carried without objection (Klaas absent).

CHANGES TO THE AGENDAITEM 4

None.

Community Development Director Robin Singer introduced two new employees, Tony McIlwain, Planner, and Stephen Olmsted, Planning Manager, and briefly described their backgrounds.

.....ITEM 5

Public Hearing: Rezone Petition 05-R1

Petitioner: FMT Development, LLC
Agent: Christopher J. Thornton, Esq.
Location: Sixth Avenue and Eighth Street North

This is a request for approval to rezone the City Center Plaza Planned Development, PD to a new PD, in order to accomplish the following:

- Reduce the density for Tract A (Parcel 2), the new Residences at City Center, from 12 units to 11 units;**
- Modify the PD document, general site plan, landscape plan to reflect changes, and traffic circulation plan in order to change the two-story residential Building C into two separate buildings; and**
- Decrease the number of overall parking spaces for the PD by 6 spaces, from a total of 218 parking spaces to 212.**

Notary Public Brenda Blair administered an oath to those intending to offer testimony; all responded in the affirmative. Community Development Director Robin Singer reported that this item is being heard again since it was discovered at the City Council meeting that not all parties had been notified (individual owners within the TIB Bank Building) and issues raised at that meeting have been addressed in the staff report. She further noted that there had been a recent ownership change and that the original owner affidavit had been provided authorizing the petitioner’s attorney to proceed. Chairman Price noted that this item would be considered as if it had not been previously heard. This being a quasi-judicial proceeding, members made the following ex parte disclosures: all members indicated visits to the site, except Member Black, who indicated that he would be abstaining because of past and current personal and business relationships with a stockholder of one of the parties (Attachment 1).

Attorney Christopher Thornton reported that the new owner had appointed him to continue with the subject petition, noting that there had been no changes since the original submittal. He clarified for Chairman Price that the petitioner agreed with staff recommendations, and the information contained in the plans submitted by Architect Richard Wu had not been changed. He

then described the parking configuration and confirmed that there are 19 parking spaces for the 11 residential units, or 1.7 spaces each; the requirement is for 1.5 spaces per unit.

Planner Kerry Nielson reported that staff recommends approval with the following conditions:

1. The parking conditions at the PD are to be continually monitored to ensure appropriate parking and to assure that parking needs for the businesses are being met.
2. The new residences being built on Parcel 2 (Tract A) should be consistent with the plans submitted by Architect Richard Wu, dated January 10, 2005, and Design Review Board comments from the January 26, 2005, meeting should be incorporated into the development before permits are obtained and a final Certificate of Occupancy issued.
3. The general site plan submitted by Architect Richard Wu, dated January 10, 2005, should be followed, and project data appearing on the plan should be consistent with the general site plan submitted.

Ms. Nielson explained that there is an exception to Item 2 above in that the Design Review Board would hear this item in May.

Public Input: (8:47 a.m.) None.

Bruce Anderson, attorney for the City, clarified for Member Jones that there might not be a rational nexus to require an increase in parking spaces over what had been approved; however, Member Jones reiterated his request to consider permanent use of 2 of the 3 undesignated spaces by allocating 2 spaces to each 3-bedroom unit and 1.5 spaces to each 2-bedroom unit, and that the assigned spaces be placed beneath the building and the undesignated spaces (on-street parking) be allocated to the TIB Building to bring the PD more into compliance with the underlying zoning (“D” Downtown District).

In response to Member Scanlan, Attorney Thornton confirmed that the new plan depicts seven unassigned spaces on Eighth Street North in addition to the allocated spaces held by the petitioner. With respect to moving TIB spaces farther from the building, he noted the following: TIB owns the building and some of the previous TIB spaces were deleted in conjunction with this proposal; TIB is now being granted use of some covered spaces; and seven spaces remain that are not assigned to that particular building. Mr. Thornton also noted that since the subject request is to remove one unit, it would be unfair to penalize the applicant by imposing a higher parking standard than contained in the previously approved PD; the subject petition exceeds the required 1.5 spaces per unit, he added. Mr. Thornton then confirmed for Member Black that the spaces assigned to each residential unit will in fact be clearly marked except for the three spaces which will be unassigned.

MOTION by Miller to ***APPROVE*** Rezone Petition 05-R1, subject to staff conditions (see above); seconded by Siedel and carried 4-2-1 (Miller-yes, Black-abstain, Scanlan-yes, Jones-no, Siedel-yes, Noe-yes, Price-no). (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 June 1, 2005.

(Items 6 and 7 were heard concurrently)

.....ITEM 6

Public Hearing: Conditional Use Petition 05-CU4

Petitioner: Neapolitan Enterprises

Agent: David M. Corban, AIA

Location: 1201 Third Street South

This is a request for conditional use approval to convert retail space to retail/restaurant space, necessitating additional parking, for the Third Street Bistro in the Mole Hole Building.

.....ITEM 7

Public Hearing: Residential Impact Statement 05-RIS6

Petitioner: Neapolitan Enterprises

Agent: David M. Corban, AIA

Location: 1201 Third Street South

This is a request for approval of a Residential Impact Statement in conjunction with 05-CU4 above.

Notary Public Brenda Blair administered an oath to those intending to offer testimony; all responded in the affirmative. Bruce Anderson, attorney for the City, noted that his firm has a conflict on this matter and subsequently left the dais. This being a quasi-judicial proceeding, members made the following ex parte disclosures: all members indicated that they had each visited the site, except Member Scanlan, who indicated that he had driven by the site.

Architect David Corban, representing the petitioner, reported that the front of the establishment will remain retail with the rear portion containing the restaurant, although outdoor dining will nevertheless be offered along Third Street South. Parking along the northeast portion of the site will be updated and additional parking installed along the alley will facilitate segregation of pedestrian from vehicular traffic; a loading area is also being added. He then reviewed existing conditions utilizing digital images and noted changes which include new windows, paint (same as existing color), and new awnings. (It is noted for the record that copies of photographs and other materials pertaining to this petition are contained in the file for this meeting in the City Clerk's Office.) Mr. Corban further explained that the intent is not to drastically alter the recognizable character of the building. He also reviewed parking requirements, noting that 24 of the required 36 spaces will be on site and the additional 12 spaces will be derived from the parking lot behind the Tommy Bahamas establishment, which is also owned by the petitioner. (It was noted later in the meeting that the Waiver of Distance Petition mentioned by Mr. Corban would be reviewed only by the City Council.)

During discussion, Architect Corban also explained that the interior of the building had not yet been defined and the area shown as an interior hallway would most likely be the separation between the kitchen and the main restaurant area. In response to various Members, he indicated that a required firewall will separate the restaurant from retail.

Public Input: (9:23 a.m.) None.

Planner Kerry Nielson reported that staff recommends approval subject to the following conditions:

1. If the building converts to all restaurant use, or the restaurant takes over more square footage, the conditional use approval for 12 spaces of off-site parking within 600 feet will be void. The Planning Division should be contacted to ensure parking needs in the future could be met if uses in the building change.
2. All noise levels shall be in accordance with Code Section 106-239, Noise.
3. This conditional use approval is valid for this petitioner only and may be revoked at any time by City Council upon the finding that the operation has resulted in the violation of City ordinances or in the violation of the conditions of approval of the conditional use.

MOTION by Black to APPROVE Conditional Use Petition 05-CU4 and Residential Impact Statement 05-RIS6, subject to staff conditions (see above); seconded by Siedel and carried 7-0 (Noe-yes, Siedel-yes, Jones-yes, Miller-yes, Black-yes, Scanlan-yes, Price-yes). These items will be heard by City Council on June 1, 2005.

.....ITEM 8

Public Hearing: Nonconformity Petition 05-N1

Petitioner: NSHE DIX, LLC, c/o Charles A. Camalier, III

Agent: John M. Passidomo, Esq.

Location: 12 Eleventh Avenue South

This is a request for approval to expand a nonconforming use in order to allow encroachments of two feet for a garage as well as additional garage height, and three feet six inches for a kitchen as the result of restoration and renovation of a historic property.

Notary Public Brenda Blair administered an oath to those intending to offer testimony; all responded in the affirmative. This being a quasi-judicial proceeding, members made the following ex parte disclosures: all indicated visits to the site except Member Scanlan; Member Jones in addition indicated a conversation with the petitioner and the petitioner's attorney; and Chairman Price in addition indicated a conversation with the petitioner's attorney.

Community Development Director Robin Singer reported that the garage had been condemned in 2003 due to flooding and termite damage. The Code allows nonconforming structures to be replaced if it is done within 12 months of the damage and built according to Code, with any expansion during reconstruction considered an expansion of a nonconformity. The petitioner proposes to raise the garage slightly and expand both structures inward toward the interior of the property; therefore, this will not impact adjacent properties, and staff recommends approval, Director Singer said.

Attorney John Passidomo, representing the petitioner, reported that the 100-year old home had been acquired three years before and that the petitioner had for the past two years been working with professionals to preserve the structure while adding modern conveniences. The proposal is therefore to:

1. Extend the garage on the property 2 feet to the west to provide space for a second vehicle, elevate the garage by 2 feet 1 inch to create clearance for structural framing and operation of an automatic door, and raise the garage 6 inches to discourage further flooding.
2. Extend the kitchen on the main house 3 feet 6 inches to the east to provide extra space to modernize kitchen.

In response to Member Jones, Attorney Passidomo explained that following the condemnation of the garage, the City had issued a building permit for reconstruction on the existing footprint;

however, the intent was to elevate the structure, so the permit was withdrawn when it was recognized that there was a need to expand the kitchen. The subject petition therefore addresses both issues. He also noted a letter to Director Singer from Donald Wingard, president of the Collier County Historical Society (a copy of which is contained in the file for this meeting in the City Clerk's Office) in support of the proposed improvements. Mr. Passidomo also confirmed for Member Jones that this is the only procedure available to address these types of issues for older homes which are now considered nonconforming structures since many date before existing zoning was overlaid.

Chairman Price related two telephone conversations he had had with citizens unable to attend this meeting. They had, he said, questioned why the petition had been scheduled to be heard when many residents were out of town. Chairman Price said that he had however explained that the PAB represents the community as a whole and the timing of a particular petition is not relevant. Attorney Passidomo further explained that after the petition was filed and before notices were posted, the petitioners had in fact contacted neighbors to show them the proposal.

Member Noe commended the petitioners for maintaining the home as a historic structure. Member Jones noted that this exemplifies the need for a historic district ordinance since minor improvements could then be approved at the staff level rather than petitioners being required to undergo the more formal process which contributes to the demolition of historic homes. Member Siedel noted that he is also a member of the Historical Society, and stated that it is very significant that the president had written in support for the petition, which shows there is an interest in preserving these properties. (It is noted for the record that the aforementioned correspondence is contained in the file for this meeting in the City Clerk's Office.) He also agreed a reduction of bureaucracy relative to these matters would be appropriate.

MOTION by Noe to APPROVE Nonconformity Petition 05-N1; seconded by Jones and carried 7-0 (Jones-yes, Noe-yes, Black-yes, Siedel-yes, Scanlan-yes, Miller-yes, Price-yes). This item will be heard by City Council on June 1, 2005.

Recess: 9:41 a.m. – 9:50 a.m. It is noted for the record that the same members were present when the meeting reconvened.

.....ITEM 9

Public Hearing: Voluntary Annexation Petition 05-AX1

Petitioner: The Moorings, Incorporated

Agent: Richard D. Yovanovich, Esq.

Location: 120 Moorings Park Drive

This is a request for approval of a Voluntary Annexation of approximately 83 acres known as Moorings Park.

Notary Public Brenda Blair administered an oath to those intending to offer testimony; all responded in the affirmative. This being a quasi-judicial proceeding, members made the following ex parte disclosures: all members indicated familiarity with the site except Members Miller, Price, and Jones, who indicated visits to the site.

Community Development Director Robin Singer reported that this voluntary annexation involves a property under single ownership, and although not required, the Finance Director had prepared an urban services report (a copy of which is contained in the file for this meeting in the City Clerk's Office). It was determined that the application meets statutory prerequisites and is adjacent to a City-owned water tank site which makes the property contiguous to the City

through the Royal Poinciana golf course (previously annexed). She explained that the proposed annexation area is reasonably compact and meets the minimum density requirements. Police protection will be provided by the City after annexation, although the North Naples Fire District may continue to provide service for four years after annexation and longer via interlocal agreement; the City however currently provides water and sewer. Minimal impact on other City services is anticipated, Mrs. Singer noted.

She then explained that the Code also provides for automatic adoption of City zoning standards; namely, from a Collier County Planned Unit Development (PUD) to a City Planned Development (PD). Two buildings are currently under construction and there are a number of projects that can be built under current zoning on the southern half of the project, known as Tract C. Tract A consists of a clubhouse, multifamily uses, and medical health facility; Tract B is nearly complete. Director Singer indicated the City and the petitioner however disagree on the issue of stormwater fees in that the petitioner has taken the position that the City's charges are not applicable since Moorings Park stormwater retention and disposal facilities are completely self-contained and have no impact on the City's system. Therefore, the petitioner is requesting a waiver of stormwater fees. Director Singer noted that although stormwater fees have also been waived for the Royal Poinciana golf course, there is nevertheless a greater public good provided through the assessment of stormwater fees; namely, maintaining streets and water quality of the Gordon River, Naples Bay, and the Gulf of Mexico. Staff recommends approval, subject to the following conditions, apart from the issue of stormwater fees:

1. The development agreement shall not commit the City to providing specific capacity and/or fee rates beyond those set forth in existing agreements.
2. This agreement shall not limit or prohibit future off-site changes in access nor will points of access as set forth in any Moorings Park master plans prohibit improvements to off-site access.
3. The applicant shall submit a complete and updated boundary survey for the subject property for the purposes of modifying the City's various maps.

City Attorney Bruce Anderson concurred with the appropriateness of discussion of stormwater fees as a separate issue.

Member Black noted that the documentation is unclear concerning the number of units to be built.

Attorney Richard Yovanovich, representing the petitioner, noted various professionals present to answer any questions. He confirmed that there are 337 existing units, 77 new units, and two buildings yet to be constructed which however may actually not be the five stories indicated. He then noted that many in Moorings Park are former City residents who desire to continue receiving City services, culminating in the annexation petition. While he said that he had not intended to address the issue of stormwater fees, this being a policy decision for City Council, Mr. Yovanovich nevertheless pointed out that the petitioner would receive no benefit from paying that fee. He clarified for Member Jones that when Royal Poinciana was annexed, it did not receive any benefit from the City's stormwater service and that this is a similar situation.

Richard Woodruff of Wilson Miller, also representing the petitioner, noted that the stormwater utility issue is part of a white paper (Attachment 2) submitted in conjunction with this matter and explained that the fee had been established by City Ordinance 92-6730. He then reviewed the

applicable information beginning on Page 4 (Stormwater Utility Fund and Fee) through Page 7 of Attachment 2. Dr. Woodruff asserted that there are no planned improvements to the Naples Bay system that would justify the petitioner paying 100% of the stormwater fee, characterizing the issue as one of equity and fairness.

In support of the petitioner's request for approval as well as in response to various members, Dr. Woodruff listed the following positive aspects of the Moorings Park annexation: protection for the City's raw water wellfield (five wells) located on the subject property; allowing former residents of the City who have retired to Moorings Park to once again become City residents; providing a quality facility for current City residents to utilize for future retirement; gaining by the City of an additional tax base; and providing the ability to annex additional contiguous properties into the City in the future. City Attorney Anderson however clarified that while the wellfield is a relevant consideration in the matter of annexation, the wellfield would not be impacted should annexation fail to occur. Dr. Woodruff referred to Exhibit 1 (Attachment 2) which states that the annual stormwater fee for Moorings Park would be \$21,984 and also pointed out that Moorings Park would be subject to any future stormwater requirements legislated by the State.

Public Input: (10:21 a.m.) None.

During further dialog, Director Singer confirmed that Royal Poinciana golf course is the only property within the City limits that has received a waiver from stormwater fees. Dr. Woodruff clarified that Coastland Mall has its own fully self-contained stormwater system but pays the City's stormwater fees since discharge is connected directly to the City's system; however, Moorings Park is not connected to any system that the City is responsible for funding. The easement in favor of Moorings Park with regard to the lake places the requirement for maintenance on Moorings Park; however, if regulations change relative to water quality issues, Moorings Park would enter into discussions with the City to determine the party responsible for meeting those regulations. In response to Member Siedel, Dr. Woodruff reiterated that although the Moorings Park system is currently self-contained, if regulations change in the future, the City would then have the right to impose a fee.

Chairman Price said he believed that the issue of whether Moorings Park should pay a stormwater fee should not be part of the discussion and that he would not base his consideration upon it. He also expressed the view that after driving around the Moorings Park neighborhood he had concluded that it would be an outstanding addition to the City. Dr. Woodruff noted for the record that it would be acceptable if the PAB desired to recommend annexation and remain neutral on the issue of stormwater.

In response to Member Black, City Attorney Anderson said that in his opinion there must be a change in the factual circumstances to justify imposing stormwater fees after they had been waived. Dr. Woodruff clarified for Member Scanlan that the current system does not have excess capacity to accommodate portions of property not yet developed in Tract C; however, in order to obtain permits from the City and the South Florida Water Management District (SFWMD) to build on Tract C, Moorings Park will be required to provide onsite stormwater management.

Member Jones concurred with remaining neutral on the issue of stormwater fees in a recommendation to City Council. Chairman Price noted that this issue had been part of the discussion and that the PAB has recognized there is an issue of fairness, but that he felt it is outside the purview of the PAB and should not be part of a motion. City Attorney Anderson confirmed that the PAB could request that the issue of stormwater fees be reviewed after a period such as five years.

Prior to the vote, Public Works Director Dan Mercer noted that there is much more to consider relative to this annexation proposal than onsite stormwater storage and that this information would be presented to City Council.

MOTION by Siedel to APPROVE Voluntary Annexation Petition 05-AX1 with the suggestion that the stormwater service and the staff recommendations be considered at the City Council level and the PAB remain neutral thereon; seconded by Noe and carried 7-0 (Noe-yes, Black-yes, Siedel-yes, Miller-yes, Scanlan-yes, Jones-yes, Price-yes). This item will be heard by City Council on June 1, 2005.

.....ITEM 10

Public Hearing: Text Amendment Petition 05-T1

Petitioner: City of Naples

This is a request for approval of a text amendment for the purpose of preserving canopy trees along city streets by adding Sections 70-6 through 70-17 to Chapter 70 of the Code of Ordinances.

Community Services Director David Lykins noted that the Board had reviewed this request on two previous occasions, the intent being to identify, mark, and protect established tree canopies. The recommendation, he said, is to utilize such existing markers as stop signs or street signs as the most economical means of adding a medallion designating that trees were being protected. In addition, notice would be provided to residents that any alterations of canopy trees must comply with the Code. Mr. Lykins characterized this as an evolutionary process wherein new streets would be identified annually.

The Board then reviewed the ordinance with Director Lykins with the following points noted:

- The ordinance would apply to designated streets only after adoption of the ordinance; notification three business days prior to utility line maintenance clearing work is sufficient.
- Member Siedel recommended increasing the fine of \$100 to \$200 for trees illegally removed since not all species are large in diameter.
- The ordinance addresses disturbance of protected trees through the permitting process.
- Member Black recommended including alleyways after "numerous city streets" to the third "Whereas" clause on Page 1.
- The City Attorney would review the proposed ordinance for scrivener's errors.
- Relative to Section 70-72, Definitions, Clear Zone, notices to property owners relative to tree trimming would be changed from 18 feet to 14 feet to be consistent with the ordinance.
- Consideration will be given to a prior PAB recommendation that Diameter at Breast Height (DBH / Section 70-72, Definitions) will be replaced with diameter of trunk at 4.5 feet above the ground. Member Black pointed out that the Natural Resources Manager had agreed with this change, and Director Lykins noted that he would consider it.
- Member Black noted that Section 70-75 should be renumbered for consistency.

- Member Black requested adding definitions for "stub cuts" and "lion's tailing" as noted on Page 9 of the proposed ordinance. Director Lykins agreed to review this information.
- It was suggested that prior to issuing demolition/building permits, existing tree locations be established and the City ensure that the necessary precautions are in place to protect them.
- Director Lykins agreed that language could be added to Section 70-76(b), Location of Protected Trees, requiring a site plan showing existing trees as a part of the project development.

Member Siedel cautioned against allowing language to become too restrictive, but Member Noe said he was comfortable with the various suggestions. Director Lykins then reviewed the process for removing a tree. It was determined during further discussion that this item would be continued for further discussion in order to alleviate any confusion before forwarding it to City Council.

MOTION by Scanlan to CONTINUE Text Amendment Petition 05-T1 to the June PAB meeting; seconded by Jones and carried 7-0 (Black-yes, Jones-yes, Miller-yes, Noe-yes, Scanlan-yes, Siedel-yes, Price-yes).

Recess: 11:10 a.m. – 11:19 a.m. It is noted for the record that the same members were present when the meeting reconvened.

(Items 11, 12, and 13 were heard concurrently)

.....ITEM 11

Public Hearing: Rezone Petition 05-R2

Petitioner: Brompton Road Partners, LLC

Agent: John M. Passidomo, Esq.

Location: 100, 200 and 300 Goodlette-Frank Road South

This is a request for approval to rezone the property known as Grand Central Station from "PD" Planned Development to "PD" Planned Development in order to construct a mixed-use development on approximately 21 acres consisting of 300 residential units and 205,000 square feet of retail/commercial/office space.

.....ITEM 12

Public Hearing: Development Agreement 05-DA1

Petitioner: Brompton Road Partners, LLC

Agent: John M. Passidomo, Esq.

Location: 100, 200 and 300 Goodlette-Frank Road South

This is a request for approval of a Development Agreement for property referred to as Grand Central Station as a means to secure the extension of Third Avenue South eastward to Goodlette-Frank Road.

.....ITEM 13

Public Hearing: Residential Impact Statement 05-RIS7

Petitioner: Brompton Road Partners, LLC

Agent: John M. Passidomo, Esq.

Location: 100, 200 and 300 Goodlette-Frank Road South

This is a request for approval of a Residential Impact Statement in conjunction with petition 05-R2 above.

Notary Public Brenda Blair administered an oath to those intending to offer testimony; all responded in the affirmative. This being a quasi-judicial proceeding, members made the

following ex parte disclosures: all members indicated visits to the site except Members Siedel and Noe who indicated familiarity with the location; in addition, all members indicated a conversation with the petitioner's attorney, and all except Member Siedel indicated a conversation with the project architect. Community Development Director Robin Singer reported that the 42-foot commercial height limitation established by the Charter is however silent with reference to residential. The "D" Downtown District limits all buildings to 3 stories and 42 feet in height and is the underlying zoning. The project across the street (Bayfront Marketplace) predates the commercial height limitation and contains several buildings at 65 feet in height; the underlying zoning in that location is "C2-A" Waterfront Commercial District. The request under consideration, Mrs. Singer said, is for a reduction of 30,000 square feet of commercial space with a corresponding increase of 47 dwelling units. Staff recommends approval subject to the same conditions imposed in Ordinance 04-10341 (the most recent rezone action relative to the property) and subject to none of the buildings exceeding 42 feet above FEMA (Federal Emergency Management Agency) grade elevation, which could include one floor of parking beneath the 42 feet in height from FEMA grade, Director Singer concluded.

John Passidomo, attorney for the petitioner, noted that following the September 2004, approval of the project, an extensive market analysis had confirmed the need for additional residential units. The proposed increase in residential units by 47 would result in a total of 300, or 14.28 units per acre, and a reduction in commercial square footage by 30,000 for a new total of 205,000 square feet. (It is noted for the record that copies of photographs and other materials pertaining to this petition are contained in the file for this meeting in the City Clerk's Office.)

Attorney Passidomo explained that the proposed development is intended to implement the purposes of the "D" Downtown District; complement, reinforce, extend, and build on the success of the Fifth Avenue South District; and help establish the new pedestrian village character of the 41-10/Heart of Naples district. The master plan of this project contemplates a prominent role for the mixed-use, commercial, and open spaces, he said, providing ample green space and water features, and linking that space to points north and south to Tenth Street South and to the Gordon River. Mr. Passidomo further asserted that the uses proposed are in keeping with the goals of the City for this area and convert a very large, underutilized parcel into a village-type environment. Architecture is consistent with Fifth Avenue South and the surrounding area in general.

He cited the following revised development features: a larger, more visual central core; cultural center; dedicated linear public park linking the project to planned public access along the Gordon River; reinstatement of the Naples street grid system; various pedestrian amenities; and a breakdown of residential building massing. He also noted the extension of Third Avenue South through the site as well as a new north/south commercial street parallel to Goodlette-Frank Road and connecting to First Avenue South at the northern perimeter of the site. Mr. Passidomo noted that the aforementioned street revisions are intended to provide improved site access and divide the overall site into block sizes more consistent with the surrounding street grid. A pedestrian connection is also proposed between the north/south commercial street and US 41, west of the intersection with Goodlette-Frank Road. A large central open space is planned at the intersection of the extended Third Avenue South and the new north/south commercial street. A cultural center at the Goodlette-Frank Road and US 41 East, he said, will provide a dynamic new cultural destination to the central core of the City.

Mr. Passidomo then noted that the retail and office space will relate to existing commercial development along Goodlette-Frank Road and Bayfront Marketplace project across the street. Setbacks along Goodlette will be consistent and surface parking will be located between commercial buildings and screened by a landscape buffer. The opening between buildings at Third Avenue South has been increased and retail/office buildings revised to allow for improved views into the central open space and to maximize visibility from Goodlette. Attorney Passidomo also pointed out that three-story gateway office buildings are proposed at Goodlette and First as well as at the intersection of Goodlette and US 41. He also cited inclusion of ample sidewalks and traffic calming, cobblestone pavers, landscaped medians, and on-street parking. Loft-type residential units are located on the upper floors in the aforementioned commercial area, adding to the mixed-use environment and reinforcing pedestrian activity; architecture throughout will be varied to counteract massing.

The residential component will face Tenth Street South and include open spaces with entry courts, pool courts, a garden area, and an archway along Third Avenue South to mark residential from commercial and mixed use. Another archway at the south end separates the cultural uses from the central plaza, Attorney Passidomo said. He also explained that, except where appropriate on the property, every effort had been made to meet City requirements relative to street dimensions, parking, service, loading facilities, and other standards.

The fourth habitable floor and ten additional feet of height of the four internal residential buildings will be concealed because of their being located over 100 feet from a public right-of-way and behind other structures, also allowing additional open space not possible with strict adherence to the "D" Downtown zoning standards. Mr. Passidomo also noted that approximately 15 standards in the PD Document differ from the "D" Downtown District, which include the four story residential buildings, and is typical for PD zoning.

Attorney Passidomo concluded his presentation by requesting approval of the project.

Architect David Corban reviewed the project utilizing computerized imagery. (It is noted for the record that copies of the aforementioned images and other exhibits pertaining to this petition are contained in the file for this meeting in the City Clerk's Office.) He explained that 52 of the 300 residential units are located on the second and third floors of mixed-use buildings; the remaining 248 residential units are located in the residential district on the western portion of the site. Approximately 50,000 square feet of the commercial square footage will be dedicated to a cultural center at the corner of Goodlette-Frank Road/US 41.

In reviewing improvements since the most recent submission, Mr. Corban noted a two-acre expansion in the central public plaza accompanied by a 40% reduction in surface parking fronting Goodlette-Frank Road. Surface parking along First Avenue South has been replaced with a mixed-use structure to service the commercial area which is shielded from the street as desired in "D" Downtown regulations. Approximately one acre along Goodlette-Frank Road has been dedicated as open space in conjunction with the request for additional residential density and exceeds the required 500 square feet of open space for each additional residential unit. This also includes a 25-foot linear parkway along Goodlette-Frank Road and provides additional open space at the corner of Goodlette-Frank Road/US 41, with access to the central public plaza.

Mr. Corban further asserted that the buildings at the most northern and southern portions of the site are stepped back from Goodlette-Frank Road to accommodate more open space in front of those structures and provide a more symbolic gateway from either direction. Other improvements realized in conjunction with re-establishment of the street grid are the reduction of access points to individual garages from 27 to 5, which provides greater control over pedestrian and vehicular traffic. Mr. Corban then noted the addition of an amenities deck above the parking structure serving the mixed-use area, for a total of four amenities decks, three of which serve residential uses. These decks include a swimming pool, landscaping, and hardscape, and increase the amount of functional open space to 46%.

During Board Member questioning, Member Noe said that he considered the central public plaza off Goodlette-Frank Road to be four separate plazas, each of which would be further refined as the buildings are developed; he urged that traffic lanes be clearly defined in the circle. He recommended against allowing vehicles in the vicinity of the cultural center, noting that its relationship to other outdoor activities in that vicinity had yet to be determined. Member Noe also stressed the desirability to link the site to Fifth Avenue South through the Collier County Museum property (formerly the Naples Depot), and expressed the position that the project could be even further refined. While concurring with the advisability of the four residential buildings with added height being hidden from view, he expressed concern that a precedent may nevertheless be set. Member Jones however took the position that, since the project is a PD, the four story residential buildings would not set a precedent. Nevertheless, he suggested that the 47 additional residential units instead be distributed throughout the site and lower the four residential buildings to 42 feet to comply with "D" Downtown District regulations.

Member Jones also predicted that the plaza area outside the proposed cultural center would be an active space, although he said he would have preferred a residential component in that location.

Attorney Passidomo then confirmed for Member Miller that the average square footage of the additional 47 units is approximately 1,300. Member Miller noted that this represents over 60,000 square feet of additional residential while only 30,000 square feet of commercial had been removed; however, Attorney Passidomo pointed out that the marketing analysis determined that there was a significant demand for residential units.

Recess: 12:30 p.m. – 1:30 p.m. It is noted for the record that the same members were present when the meeting reconvened.

Member Scanlan commended the petitioner for efforts to adhere to the "D" Downtown standards and said that he believed the project had been greatly improved with additional through streets and open public area. Mr. Scanlan recommended that the PAB remain mindful that the project is a PD, although it is nevertheless in the spirit of the "D" Downtown District and from a planning standpoint will benefit the City. He also cited the linear park and the transition from residential to mixed use to commercial and complimented Buildings N, O, and P, and spoke in favor of the four, four-story residential buildings, noting that the petitioner had been granted the additional height in a previously approved PD. In conclusion, Member Scanlan expressed the position that the petitioner had justified the increase in residential units by performing a marketing analysis.

Chairman Price said that he believed this to be the best location for 300 of the 600 dwelling units permitted in the "D" Downtown District south of Central Avenue, commenting on the ability of both the developer and the professionals used. Architect Corban confirmed that Buildings K and L each remain at 42 feet in height but now include residential units while the commercial square footage remains the same.

Member Black also cited the professional acumen represented in this project, and while the petitioner's monetary position is not within the purview of the Board's deliberation, it should nevertheless be taken into consideration. He also said that he felt that the project is something the City desires and that it should not be further delayed. Member Siedel concurred with Member Black, also praising the project and predicting its importance as a center of the community. He also asked that the petitioner be cognizant of the Trent Green community gateway study and its objectives. He said he also shared a concern for delaying the project further since long term economics are unknown. Member Noe commended the professional group involved in this project for its willingness to effect positive changes, although he said he would not have voted against it absent the changes.

In further discussion it was determined that any documents approving this project should contain a copy of correspondence dealing with continued use by Robert Weissenborn (Naples Armature Works) of a 30-foot setback which had occurred at the sufferance of both Naples Community Hospital, prior owner of the site, and current owner Jack Antaramian. This document was described as a letter from Attorney Passidomo, dated May 9, 2005 (Attachment 3).

Director Singer confirmed for Member Jones that this is the first petition that would consume residential units from the 600-unit pool allowed south of Central Avenue in the 41-10/Heart of Naples district. Member Jones nevertheless encouraged the petitioner to return with any changes that would enhance the project; he also predicted that marketers of Fifth Avenue and Third Street areas should be aware that this project will be a competitor. Chairman Price noted that he had conveyed to Mr. Passidomo his preference for use of trellises and terraces in conjunction with the parking garages as depicted in the previous submittal.

Attorney Passidomo expressed appreciation to Board Members for their comments, and noted that the petitioner had offered to undergo an additional preliminary review with the Design Review Board. He also noted that the petitioner would consider all the comments made that day.

While complimenting the petitioner on the quality of the project, Member Miller said he could not support buildings higher than the 42-foot limit imposed by voters as the result of a Charter amendment. Attorney Passidomo however pointed out that the City Council had subsequently unanimously approved residential buildings at 78 feet in height across the street from the Antaramian project. He also corrected his prior assertion that 5% of the site contained buildings at 52 feet when 3% is in fact more accurate, noting that the petitioner has abided by many of the goals of the "D" Downtown District. Attorney Passidomo however said that to suggest that the strictly residential portion of that PD violates the Charter challenges the logic of opinions and interpretations by City Council since enactment of the Charter amendment in 2000. He also noted that the City Attorney has opined that, pursuant to the Code of Ordinances, a Planned Development can be segregated into residential, mixed-use, and commercial components.

Public Input: (1:56 p.m.) **Alan Ryker, 300 Fifth Street South**, said that he resides near the project and shares his neighbors' enthusiasm. However, he encouraged the PAB to consider a revised streetscape plan on Third Avenue South that would reflect the techniques used on Tenth Street in front of the subject property, and suggested that the petitioner consider doing whatever possible to connect sidewalks from the Gulf to the linear park on the subject project via the sidewalks already installed on Third Avenue South west of US 41.

Member Noe urged the petitioner's team to participate in an upcoming Four Corners (Fifth Avenue South and US 41) Charrette. Attorney Passidomo confirmed participation.

MOTION by Scanlan to APPROVE Rezone Petition 05-R2 as submitted, incorporating the agreement between the petitioner and Robert Weissenborn (Naples Armature Works) as outlined in the correspondence dated May 9, 2005 (Attachment 3) from the petitioner's attorney John Passidomo. This motion was seconded by Jones and carried 6-1 (Scanlan-yes, Noe-yes, Jones-yes, Siedel-yes, Black-yes, Miller-no, Price-yes).

During the vote, Member Jones stated that he understood that by right the PD fits within the guidelines of the "D" Downtown District since the 52-foot height issue relates solely to residential units and the 42-foot height limitation does not apply. Chairman Price requested clarification regarding whether reference to 52 feet should be added to the language on Page 7, Item 3, of the Second Amended and Restated Planned Development Document (Attachment 4). While City Attorney Anderson said that this could be done, Attorney Passidomo noted however that the language referred to by Mr. Price is in response to the PD criteria and meant to be more argumentative, persuasive, and justifiable; the actual performance standards on Page 10 of the final version (Attachment 5) clearly outline maximum heights for Buildings C, F, G, and H.

MOTION by Siedel to APPROVE Development Agreement 05-DA1; seconded by Black and carried 7-0 (Scanlan-yes, Noe-yes, Jones-yes, Siedel-yes, Miller-yes, Black-yes, Price-yes).

MOTION by Black to APPROVE Residential Impact Statement 05-RIS7; seconded by Scanlan and carried 7-0 (Siedel-yes, Jones-yes, Noe-yes, Scanlan-yes, Black-yes, Miller-yes, Price-yes). These items will be heard by City Council on June 1, 2005.

STAFF CORRESPONDENCE.....ITEM 14

PAB Member Orientation Manual

Sandpiper Street

Community Development Director Robin Singer noted that this had been included in the event members had any questions. She also noted that improvements to Sandpiper Street would be addressed by the PAB after City Council approves the project as a Capital Improvement Project (CIP) and confirmed for Member Black that she would discuss further with the City Attorney whether a chain link fence is allowed at a school. Director Singer then noted that a workshop may be scheduled following the June meeting to address some of the issues previously identified by the Board for discussion. It was noted for the record that Member Black would be absent in June and Member Miller would be absent in July.

ADJOURN
2:14 p.m.

Gary Price, Chairman

Robin Singer, Community Development Director

Minutes prepared by:

Brenda A. Blair, Recording Specialist

Minutes Approved: June 8, 2005