



City of Naples

City Council Minutes
Regular Meeting 01/04/89

City Council Chamber
735 Eighth Street South
Naples, Florida 3394

-SUBJECT-	Ord. No.	Res. No.	P.
<u>ANNOUNCEMENTS:</u> MAYOR PUTZELL: Read a proclamation declaring Martin Luther King, Jr., Day, January 16, 1989, as a City holiday in memory of this great leader. CITY MANAGER JONES: None.			
<u>APPROVAL OF MINUTES:</u> December 7, 1988, Regular Meeting December 7, 1988, Workshop Meeting			1
<u>PURCHASING:</u> -BID AWARD for one mid-volume copy machine, Police Department. -BID AWARD to purchase limerock material for Engineering and Utilities Departments.		89-5702 89-5703	
<u>RESOLUTIONS:</u> -APPROVE acceptance of utility easements at U.S. 41 and River Point Drive. -APPROVE agreement with the Collier County School Board to use school buses to transport summer recreation program participants. -APPROVE Utility Relocation Agreement with DOT for intersection at State Road 84 and 90. -APPROVE renewal of Blue Cross/Blue Shield contract. -APPROVE appointment of consultant selection committee for City Marina expansion and Naples Landing renovation. -APPROVE contract between the City and AFSCME, District Council 79. -APPROVE Wage and Benefit Plan for non-bargaining unit employees. -APPROVE Quit Claim Deed to Sutton Development Company. -APPROVE ranking of firms for engineering services for Naples Historic District Ordinance Project. -APPROVE amendment to the Intergovernmental Agreement with Collier County regarding future planning.		89-5701 89-5704 89-5705 89-5706 89-5707 89-5708 89-5709 89-5710 89-5711 89-5712	 3 4 5
<u>DISCUSSION/ACTION:</u> -Presentation of development plans by the Barron Collier Company for the proposed development at the intersection of Airport Road and Golden Gate Parkway. -Requested reconsideration of the Council decision regarding traffic circulation for a proposed hotel on U.S. 41 at State Road 84.			8
<u>ORDINANCES - Second Reading:</u> -ADOPT the Comprehensive Plan for the City of Naples.	89-5713		9
<u>CORRESPONDENCE AND COMMUNICATIONS:</u> -Discussion regarding a memorial in honor of the late George Pittman. -Discussion regarding attendance at Collier County Commission meetings. -Announced next Neighborhood Town Meeting location.			14

City Council Chambers
735 Eighth Street South
Naples, Florida 33940



CITY COUNCIL MINUTES
Regular Meeting

Time 9:00 a.m.

Date 01/04/89

Mayor Putzell called the meeting to order and presided as Chairman:

ROLL CALL: Present: Edwin J. Putzell, Jr., ITEM 2
Mayor

Kim Anderson-McDonald
William E. Barnett
Alden R. Crawford, Jr.
John T. Graver
Paul W. Muenzer
Lyle S. Richardson,
Councilmen

Also Present:

Franklin C. Jones, City Manager	Christopher L. Holley, Community Services Dir.
David W. Rynders, City Attorney	Steven R. Ball, Chief Planner
Mark W. Wiltsie, Assistant City Manager	Stewart K. Unangst, Purchasing Agent
Gerald L. Gronvold, City Engineer	James L. Chaffee, Utilities Director
Ann "Missy" McKim, Community Dev. Director	Frank "Bill" Hanley, Finance Director
Norris C. Ijams, Fire Chief	Jon C. Staiger, Ph.D., Natural Resources Mgr.
Susan Golden, Planning Technician	Patricia "Trish" Heinonen, Planner II
Jodie M. O'Driscoll, Deputy Clerk	George Henderson, Sergeant-At-Arms

See Supplemental Attendance List - Attachment #1.

INVOCATION: Reverend Eleanor McMullen ITEM 1
Moorings Presbyterian Church

ANNOUNCEMENTS: ITEM 3

MAYOR PUTZELL: Read a proclamation declaring Martin Luther King, Jr., Day, January 16, 1989, as a City holiday in memory of this great leader (Attachment #2).

CITY MANAGER JONES: None.

-----CONSENT AGENDA-----

APPROVAL OF MINUTES

December 7, 1988, Regular Meeting
December 7, 1988, Workshop Meeting

Citizen J. Sandy Scatena registered to address Council regarding minutes of the December 7, 1988, regular meeting. He was concerned that there might be a misunderstanding regarding the phrase "public hearing" for the purpose of reviewing an annexation report currently being prepared by the Florida Atlantic/Florida International University Joint Center for Environmental and Urban Problems. Mayor Putzell, however, pointed out that the minutes could only be amended if they were not an accurate accounting of the meeting.

CITY OF NAPLES, FLORIDA

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MEMBERS

VOTE		A B S E N T
M O T I O N	S U P P O R T	
1	19	

City Manager Jones explained that the City was scheduling a workshop, January 9, 1989, with representatives from the University to present their report to Council. It would be the Council's decision whether it wants this meeting to serve as either a work session or public hearing. Mayor Putzell told Mr. Scatena that staff would advise him when the public hearing would be held as soon as practicable.

---RESOLUTION NO. 89-5701

ITEM 5

A RESOLUTION ACCEPTING UTILITY EASEMENTS ON THE NORTH SIDE AND THE SOUTHEAST CORNER OF THE INTERSECTION AT RIVER POINT DRIVE AND U.S. 41 IN ORDER TO INSTALL A TRAFFIC SIGNAL; AND PROVIDING AN EFFECTIVE DATE.

Title not read.

In response to Mayor Putzell, City Engineer Gronvold estimated that installation of the arm mast would occur sometime during the second week in January.

PURCHASING

ITEM 6

---RESOLUTION NO. 89-5702

ITEM 6-a

A RESOLUTION AWARDDING CITY BID #89-13 FOR ONE (1) MID-VOLUME COPY MACHINE TO BE INSTALLED IN THE POLICE DEPARTMENT; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

E.J. Levay Company
Ft. Myers, Florida
\$12,391.00

Title not read.

In response to Councilman Crawford, Purchasing Agent Unangst noted that mechanical supplies (toner, developer) and service would be provided to the City for two years without additional cost.

---RESOLUTION NO. 89-5703

ITEM 6-b

A RESOLUTION AWARDDING CITY BID #89-17 FOR THE CITY OF NAPLES TO ENTER INTO A TERM CONTRACT WITH FLORIDA ROCK INDUSTRIES, INC., FORT MYERS, FOR THE PURCHASE OF LIMEROCK MATERIAL FOR THE CITY ENGINEERING AND UTILITIES DEPARTMENTS; AUTHORIZING THE CITY MANAGER TO ISSUE PURCHASE ORDERS THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Florida Rock Ind., Inc.
Ft. Myers, Florida
\$40,250.00 (thru 9/30/89)

Title not read.

City Council Minutes

Date 01/04/89

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	
Anderson- McDonald			X		
Barnett			X		
Crawford			X		
Graver			X		
Muenzer	X		X		
Richardson		X	X		
Putzell			X		
7-0					
Anderson- McDonald		X	X		
Barnett			X		
Crawford			X		
Graver			X		
Muenzer			X		
Richardson	X		X		
Putzell			X		
7-0					

---RESOLUTION NO. 89-5704

ITEM 7

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT BETWEEN THE SCHOOL BOARD OF COLLIER COUNTY AND THE CITY OF NAPLES FOR THE USE OF COUNTY SCHOOL BUSES TO TRANSPORT SUMMER RECREATION PROGRAM PARTICIPANTS UNDER THE REVISED RATE STRUCTURE; AND PROVIDING AN EFFECTIVE DATE.

Title not read.

MOTION: To APPROVE the Consent Agenda as presented.

-----END CONSENT AGENDA-----

---RESOLUTION NO. 89-5705

ITEM 8

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A UTILITY RELOCATION AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION IN CONJUNCTION WITH THE CONSTRUCTION OF SIGNAGE AND ADDITIONAL TRAFFIC LANES AT THE INTERSECTION OF STATE ROAD 84 AND 90; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

City Manager Jones explained that the Florida Department of Transportation (FDOT) requires execution of an agreement such as this each time construction is implemented in the rights-of-way in order to avoid conflict of street drainage, utility lines and the like. In response to Councilman Graver, Mr. Jones advised that the normal procedure in situations like this was for the City to enter into an agreement with the State's contractor. Costs associated with replacement of these lines would solely be the City's responsibility, he said.

MOTION: To APPROVE the resolution as presented.

---RESOLUTION NO. 89-5706

ITEM 9

A RESOLUTION RENEWING THE CONTRACT TO BLUE CROSS BLUE SHIELD FOR THE PERIOD BEGINNING FEBRUARY 1, 1989, THROUGH DECEMBER 31, 1989, TO SECURE GROUP HEALTH INSURANCE BENEFITS FOR CITY EMPLOYEES; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

Finance Director Hanley noted that this was the second annual renewal of the contract since 1986 when it was last bid. The City's policy is to bid this service every three years as will be done sometime during the 1989 calendar year. There have been no additions or deletions recommended for the

CITY OF NAPLES, FLORIDA

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COUNCIL
MEMBERS

VOTE	
Y	N
21	

plan; however, a 26% increase has been proposed based on trend and experience. Mr. Bob Reynolds of Blue Cross and Blue Shield was in attendance to answer any questions.

In response to Mayor Putzell's concerns regarding Blue Cross and Blue Shield's financial solvency, Mr. Reynolds assured Council that while his group's Health Maintenance Organizations (HMO) may not be financially stable, the parent company was quite able to meet all its obligations.

Councilman Graver asked if the 26% increase could be negotiated to which Finance Director Hanley advised that it could not. Blue Cross and Blue Shield are firm on that amount, he said; however, the City has the option to cancel this contract at any time without reprisal.

Referring to an opinion letter received by the City's insurance consultant (Attachment #3), Mayor Putzell questioned the validity of such an increase. Finance Director Hanley, however, pointed out that this contract expired in October and subsequent months involved claims which have exceeded the estimated amount thereby causing an increase of 26%. Staff will look into the possibility of self-funding this insurance when the contract is let for bid.

MOTION: To APPROVE the resolution as presented.

---RESOLUTION NO. 89-5707

ITEM 10

A RESOLUTION APPOINTING A CONSULTANT SELECTION COMMITTEE FOR THE PURPOSE OF REVIEWING PROPOSALS SUBMITTED BY DESIGN ENGINEERING FIRMS TO PROVIDE PROFESSIONAL SERVICES IN CONJUNCTION WITH THE EXPANSION OF THE CITY MARINA AND RENOVATION OF NAPLES LANDING; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

This resolution proposes appointment of one consultant selection committee for expansion of the City Marina and renovation of Naples Landing. The State permitting process for these two projects has been completed and the engineering designs must now be procured, Community Services Director Holley advised.

Councilman Crawford expressed concern regarding an expenditure of this amount to determine proposed costs for the project. The City should be able to spend less money to obtain exact cost estimates for these projects, he said. City Manager Jones suggested that Council approve this resolution with the stipulation that line item estimates be obtained through the interview process from the highest ranked firms.

Referring to the Boardwalk system, Mr. Richardson took exception to part of it being constructed now, and the remainder at a future date, and moved to exclude that part of the project from the resolution.

Anderson-
McDonald
Barnett
Crawford
Graver
Muenzer
Richardson
Putzell
7-0

	X		
	X		
	X		
	X		
X	X		
X	X		
X	X		

Anderson-
McDonald
Barnett
Crawford
Graver
Muenzer
Richardson
Putzell
2-5

			X
			X
			X
			X
	X	X	
X	X		
X			X

COUNCIL
MEMBERS

M O T I O N	S E C O N D S	Y E S	N O	A B S E N T
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Councilman Muenzer seconded the motion. This motion failed by a vote of 2-5.

After a brief discussion regarding project costs, Mr. Crawford moved to approve the resolution with the amendment that line item cost estimates be obtained from the highest ranked firms to be reviewed by Council at a later date prior to awarding the bid for engineering design work. Councilman Graver seconded the motion.

Mr. Richardson, however, said that he did not believe the interview process would afford the City estimates which it thought it might. He further suggested that a member of Council be appointed to the committee as well.

Council appointed Lyle S. Richardson to the committee by acclamation.

MOTION: To APPROVE the resolution with an amendment that would require line item cost estimates be obtained from the highest ranked firms during the interview process.

---RESOLUTION NO. 89-5708

ITEM 11

A RESOLUTION RATIFYING AND CONFIRMING THE CONTRACT BETWEEN THE CITY OF NAPLES AND DISTRICT COUNCIL NO. 79 OF AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES FOR THE PERIOD JANUARY 1, 1989, THROUGH DECEMBER 31, 1991; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

Assistant City Manager Wiltsie advised that after much deliberation the Union and City had agreed to this contract. The American Federation of State, County and Municipal Employees (AFSCME), Local 2017 had ratified the contract on December 20, 1988, he said. Approximately 267 employees are affected by this contract.

Referring to the four sessions required to come to this agreement, Mr. Graver said that he was pleased with the good rapport which the administration and its employees had.

Mr. Wiltsie noted that Article 13 and 14, relating to sick and vacation leave would be discussed at a future date. In response to Councilman Crawford, Mr. Wiltsie affirmed that the employees would have to ratify any amendments to the agreement.

MOTION: To APPROVE the resolution as presented.

---RESOLUTION NO. 89-5709

ITEM 12

A RESOLUTION ADOPTING THE WAGE AND BENEFIT PLAN FOR NON-BARGAINING UNIT EMPLOYEES FOR 1989; AND PROVIDING AN EFFECTIVE DATE. -

Title read by City Attorney Rynders.

Anderson-
McDonald
Barnett
Crawford
Graver
Muenzer
Richardson
Putzell
7-0

Anderson-
McDonald
Barnett
Crawford
Graver
Muenzer
Richardson
Putzell
7-0

COUNCIL
MEMBERS

VOTE		A B S E N T
M O T I O N	S E C O N D	
	123	

City Manager Jones advised that changes to the pay classification plan were recommended by Cody & Associates, Inc., as outlined in the packet material. This adjustment is to bring the City's pay schedule in line with that of the County's to ensure its ability to recruit and retain quality people.

Mr. Crawford said he believed the pay schedule should be compared to private industry as well. Personnel Director McShane advised that surveys are taken from the private sector regarding certain positions such as secretarial, carpenter, general laborers, and the like. However, there are also some other positions where no similar classification exists: wastewater plant operator, communication operators, etc.

Referring to page 11, section 6, of the non-bargaining unit pay plan, Councilman Muenzer asked if funeral leave was an additional benefit or if it was deducted from the employee's sick or vacation leave time. City Manager Jones advised that it was an added benefit. Mr. Muenzer then said that he was not comfortable approving the new pay classification plan without receiving additional information: name, job title, current pay level, new pay level and maximum pay level available under present salary schedule. This would help the Council to determine if a new employee is inheriting a salary given to his predecessor for his past accomplishments. He also expressed concern that the Fire and Police Chiefs were not in the same pay plan and asked that this also be discussed at a future date.

Mrs. Anderson-McDonald noted that staff currently was inundated with the upcoming mail election, March 7, 1989, and asked if this could be scheduled for a workshop sometime in April. Mr. Muenzer concurred and reiterated his concerns about the plan. Councilman Graver asked that Council be provided with a survey from the private sector regarding these classifications as well.

MOTION: To APPROVE Item 12 as stated in the foregoing resolution.

City Manager Jones clarified that the pay plan Council just approved did, in fact, contain classification changes as recommended by Cody & Associates, Inc. Staff will prepare a survey and report as requested by Councilman Muenzer of Pay Plan II, exempt employees.

Mayor Putzell advised members of the NAACP who were in attendance that the proclamation read at the beginning of the meeting would be delivered to them later in the day.

Anderson-
McDonald X
Barnett X
Crawford X
Graver X
Muenzer X
Richardson X
Putzell X
7-0

---RESOLUTION NO. 89-5710

ITEM 13

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A QUIT CLAIM DEED TO SUTTON DEVELOPMENT COMPANY; ACCEPTING A DEED TO A UTILITY EASEMENT; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

City Attorney Rynders advised that essentially this was a trade of easements. The Sutton Development Company in its original vacation petition were not in favor of this compromise; however, since further discussion, they have asked that the City execute a quit claim deed in exchange for an utility easement around the northern perimeter of the block.

MOTION: To APPROVE the resolution as presented.

---RESOLUTION NO. 89-5711

ITEM 14

A RESOLUTION RANKING THE TOP THREE FIRMS IN ORDER OF PREFERENCE TO PROVIDE ENGINEERING SERVICES FOR THE NAPLES HISTORIC DISTRICT ORDINANCE PROJECT; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A CONTRACT; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

The Consultant Selection Committee for this project has met and recommended that Design Studios West, Inc., of Sarasota be awarded the contract.

In response to Mayor Putzell, City Attorney Rynders advised that he had indeed read and confirmed the contract but noted that for such a small project, this contract was massive.

MOTION: To APPROVE the resolution as presented.

---RESOLUTION NO. 89-5712

ITEM 15

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY AND COLLIER COUNTY; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

City Attorney Rynders advised this amendment was to provide that the City and County work jointly regarding future planning in a number of areas, including those slated for annexation. It should be noted that this Agreement is in compliance with State regulations governing plans for proposed annexation areas.

MOTION: To APPROVE the resolution as presented.

COUNCIL MEMBERS	MOTION	VOTE			ABSENTEE
		Y	N	O	
Anderson-McDonald					
Barnett	X	X			
Crawford		X			
Graver		X			
Muenzer		X			
Richardson	X	X			
Putzell		X			
6-0					
Anderson-McDonald					
Barnett	X	X			
Crawford		X			
Graver		X			
Muenzer		X			
Richardson	X	X			
Putzell		X			
6-0					
Anderson-McDonald					
Barnett	X	X			
Crawford		X			
Graver		X			
Muenzer		X			
Richardson	X	X			
Putzell		X			
7-0					

COUNCIL
MEMBERS

M O T I O N	S E C O N D	Y E S	N O	125
				VOTE

ITEM 16

PRESENTATION OF DEVELOPMENT PLANS BY THE
BARRON COLLIER COMPANY FOR THE PROPOSED
DEVELOPMENT AT THE INTERSECTION OF AIRPORT
ROAD AND GOLDEN GATE PARKWAY.

City Manager Jones advised that the Barron Collier Company has property in one of the areas proposed for annexation and are present today to discuss development plans. Approximately 400 acres of the 1600 acre site is in the annexation area. This company has been working with the County government preparing a Development of Regional Impact (DRI) and would request the City allow that agency to continue in that vein.

Mr. Roy Cawley of the Barron Collier Company made a brief presentation to Council showing preliminary sketches of the development including landscaping of a main corridor into the City, Golden Gate Parkway. This proposed development will include not only residential properties, but approximately three golf courses, retail shopping centers, wetland preservation, etc. It also provides for an innovative traffic circulation plan which would allow motorists in the development to drive over Airport-Pulling Road and Golden Gate Parkway via overpasses.

In response to Mr. Crawford's density concerns, Mrs. McKim advised that there was a difference between the City and County's computation of density per acre; however, she did not expect this development would have a problem meeting the City's requirement.

Councilman Graver asked the developers when the project was expected to be complete. Mr. Cawley said he had hoped within the next ten to twelve years. This development should be through the permitting process by the end of next year, he said. In response to Mayor Putzell, Mr. Cawley advised that his group planned to develop all commercial and office structures on the site.

Referring to property adjacent to the school, Councilman Muenzer asked if the school had expressed an interest in acquiring that land. Mr. Cawley explained that his group currently was negotiating with the school board but could not at this time indicate if they would agree to such an acquisition.

The portion of the project on the west side of Airport-Pulling Road would be serviced by City water/sewer system, as currently is the case. However, the area to the east would have to be discussed with the County as to what agency would provide that service. Mr. Jones explained in response to Councilman Graver.

City Manager Jones further explained that staff was asking Council at this time for direction inasmuch as time was limited prior to the March annexation election to prepare and execute a development agreement for this property.

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In response to Mr. Muenzer, City Manager Jones noted that the property would have to connect to the City's effluent because, according to Code, it is a parcel larger than ten acres. Mr. Cawley said that his group fully intended to participate in that program as it would be of substantial benefit for them to do so. Councilman Muenzer clarified that he would like to see the entire project connected to the effluent reuse system.

It was the consensus of Council that staff begin negotiation of a development agreement with the Barron Collier Company regarding property within the proposed annexation area west of Airport-Pulling Road.

ITEM 17

REQUESTED RECONSIDERATION OF THE COUNCIL DECISION REGARDING TRAFFIC CIRCULATION FOR A PROPOSED HOTEL ON U.S. 41 AT STATE ROAD 84. REQUESTED BY PROPERTY OWNER.

This item was postponed to the January 18, 1989, regular Council meeting.

-----ADVERTISED PUBLIC HEARINGS-----

---ORDINANCE NO. 89-5713

ITEM 18

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN FOR THE CITY OF NAPLES; PROVIDING ELEMENTS FOR FUTURE LAND USE AND DEVELOPMENT, PUBLIC FACILITIES AND WATER RESOURCES, TRAFFIC CIRCULATION, HOUSING, PARKS AND RECREATION, CONSERVATION AND COASTAL MANAGEMENT, INTERGOVERNMENTAL COORDINATION AND CAPITAL IMPROVEMENTS; AND PROVIDING AN EFFECTIVE DATE. PURPOSE: TO ADOPT AN AMENDED COMPREHENSIVE PLAN PURSUANT TO THE LOCAL GOVERNMENTAL COMPREHENSIVE AND LAND DEVELOPMENT REGULATION ACT AND THE GROWTH MANAGEMENT ACT.

Title read by City Attorney Rynders.

PUBLIC HEARING: Opened: 10:55 a.m.
Recessed: 12:05 p.m.
Reconvened: 12:15 p.m.
Closed: 1:24 p.m.

Community Development Director McKim advised that staff recommended approval of the Comprehensive Plan with changes outlined in staff's memorandum dated December 21, 1988, herein included as Attachment #4.

Mr. Robert Dennis of the Florida Department of Community Affairs (DCA) read a brief statement into the record (Attachment #5). In response to City Attorney Rynders, Mr. Dennis commented that when DCA is asked to attend a public hearing by the local government, it is obligated to comply.

COUNCIL
MEMBERS

VOTE	
MOTION	27
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Referring to the approval process, City Attorney Rynders continued that once a Plan is adopted, it is then forwarded to DCA which would have 45 days to determine if it is in compliance with the Growth Management Act. If it is not in compliance, the only remedy which the State has is to withhold tax and grant monies from the City. Should a property owner dispute the validity of the Plan, he can do so by requesting an administrative hearing with the State to determine compliance.

After a brief discussion regarding possible land use designations for property to be developed by the Barron Collier Company, staff recommended that a development agreement would be the proper avenue to take instead of a UPD (Urban Planned Development) designation in the Plan.

Mr. Robert Duane of Hole, Montes & Associates, Inc., representing Comhold Investments, Inc., reiterated his previous comments that property his client has an interest in be designated medium density instead of the present low density use in the Plan (Attachment #6). City Attorney Rynders said that he did not believe the second reading of an ordinance an appropriate time to address such changes and further said that Mr. Duane's concerns could be addressed in a development agreement as has been the case in similar situations. Attorney Don Pickworth, also representing Comhold Investments, Inc., concurred with the City Attorney's findings that a development agreement could assuage his client's concerns.

Referring to the two changes allowed per year to the Plan, Councilman Graver expressed concern that it would not be sufficient to address all these agreements. However, Mrs. McKim advised that more than one amendment could be addressed at those times.

Attorney J. Dudley Goodlette, representing Key Island, Inc., then spoke briefly regarding new data and analysis which he believed supported the limited residential development of Key Island. He recommended that Council adopt Section 161.142 FS, 1986 Supplement of the Florida State Statutes (Attachment #7) regarding placement of sand on downdrift beaches. Natural Resources Manager Staiger, however, took exception to this and said that he had spoken with the Department of Environmental Regulation (DER) regarding this item and was told that during the course of testimony from experts at a lawsuit involving this same question, it was not determined which area (north or south) was, in fact, the downdrift beach. The DER has since approved placement of dredged sand from Gordon Pass to the north on City beaches. Dr. Staiger added.

Mr. Steve Pfeiffer, representing 1,000 Friends of Florida, restated his group's support of the staff's recommendations and action taken at the last public hearing. The V-Zone line is the appropriate construction limitation to implement on Key Island if the main objective is protection from hurricanes and tropical storms. Referring to Attorney Goodlette's suggestion that Council adopt what he

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believed to be new data and analysis regarding Key Island. Mr. Pfeiffer strongly opposed this recommendation inasmuch as it has not been thoroughly examined by other experts in the field.

Mr. Alan Reynolds of Wilson, Miller, Barton, Soll & Peek, representing Mr. and Mrs. John Remington, presented proposed changes to the Plan (Attachment #8). He recommended that construction on the island be permitted landward of the Coastal Construction Setback Line (CCSL) instead of the high hazard designated V-Zone line. Referring to density uses on the island, his group recommended that in the non-COBRA areas one unit per acre be allowed, in COBRA areas, one unit per two acres. His final recommendation included redefinition of Conservation/Vital and Conservation/Limited development. Staff reminded Council that the State's CCSL would be moved landward in some instances in the very near future. Mrs. McKim reiterated staff's recommendation to stay with its original recommendation of the V-Zone designation for development. Natural Resources Manager Staiger clarified that the V-Zone line was created by use of models to determine the landward position of storm damage and waves which could impact structures seaward of it. The V-Zone line also is used by FEMA (Flood Elevation Management Act) in determining flood insurance rates.

Council asked the representative from DCA to comment on Mr. Reynolds' recommended changes. Mr. Bob Dennis of DCA said he had no personal knowledge of other areas which had indicated the V-Zone as its construction line. He then stated that 9J5 requires high hazard areas be defined and construction steered away from those areas. After a brief discussion regarding differences between V-Zone and CCSL designations, Mrs. McKim said that staff's philosophy has been not to allow development in the high hazard area where there has been no development in the past as it interpreted 9J5 to indicate. Staff did not support Mr. Reynolds' recommended changes to the Plan.

RECESS: 12:05 p.m. until 12:15 p.m.

After the recess, Mayor Putzell asked Mr. Dennis of DCA to comment on the previous discussion regarding V-Zone and CCSL designations. Mr. Dennis said that there was nothing in the 9J5 regulation which would prohibit development in the high hazard area. The language does, however, recommend that population concentration be directed from known or predicted high hazard areas. He did indicate that he was uncertain what DCA's policy would be concerning the Key Island issue inasmuch as it was unaware of the sensitivity surrounding the project.

Dr. Mark Benedict, representing the Conservancy, spoke briefly regarding the State's FEMA regulations and handed out several flood insurance studies (copies of which can be reviewed from the meeting packet in the City Clerk's Office). The

Conservancy's position is that Council should adopt the current Plan as approved at the last public hearing. Dr. Benedict further stated his group believed the entire area of Key Island should be designated Conservation/Vital. In response to Mayor Putzell, Dr. Benedict said he believed the FEMA lines had a good basis for implementation and if construction were allowed, it should only be permitted up to those lines.

Attorney Michael J. Volpe of Quarles and Brady, representing Mr. and Mrs. John Remington, asked that his letter to Council dated January 4, 1989, be included in the record of this proceeding (Attachment #9). He asked that his clients' proposed development be considered under the 1984 Comprehensive Plan inasmuch as they had submitted a petition to staff in May, 1988 prior to adoption of this Plan. In response to Mayor Putzell, Attorney Volpe advised that his client had not withdrawn his petition at any time after its inception.

After a brief discussion concerning implementation of the new Plan, City Attorney Rynders explained that when Mr. and Mrs. Remington's petition was originally presented to the FAB, it would have been considered under the 1984 Comprehensive Plan; however, they were fully aware that the proposed Plan called for greater conservation of barrier islands and that it could adversely affect their petition if adopted prior to commencement of construction. Attorney Volpe, however, took exception to this interpretation and said his clients are entitled to vested rights inasmuch as their petition had been submitted prior to public discussion of the proposed Plan. The City Attorney said that he did not believe the petitioner was entitled to vested rights and, further, said he believed his decision would stand up in Court.

Mr. Graver pointed out that Council had never been given the opportunity to review or discuss that petition, the FAB was the only Board afforded such a privilege. He further noted that it was the FAB's contention the petitioner was not presenting his proposal in a timely manner. Attorney Volpe asked if his petitioner's rights could be protected via development agreement. City Attorney Rynders, however, advised that the Key Island interest was not in the same posture as property owners in the to be annexed areas. Such an agreement, if feasible, would take a great deal of analysis and could not be completed prior to adoption of the new Plan.

In response to Councilman Muenzer, FAB Chairman Lodge McKee advised that the Board was in no position to guarantee the petitioners that their proposal would be considered under the 1984 Comprehensive Plan. Mayor Putzell asked the City Attorney if he was comfortable with the issue of vested rights should this matter go to Court and Mr. Rynders advised that he was quite comfortable with any litigation that has been threatened thus far.

City Attorney Rynders clarified that the time in August, when he asked staff not to meet with the Remington group, was only after a lawsuit against the City had been initiated and he did not want any issues misconstrued regarding that suit.

COUNCIL
MEMBERS

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Attorney Nancy Stroud, representing John Donahue, spoke briefly regarding legal considerations of late changes to a Comprehensive Plan (Attachment #10). Referring to previous comments about placement of sand on downdrift beaches, Ms. Stroud advised that through the Courts, it was not established whether there was a southerly downdrift along that area by Gordon Pass. She further noted that her client has constructed a groin to help place sand north of the Pass with his own money to help with beach renourishment efforts.

Mr. C. Lodge McKee spoke, not in his capacity as PAB Chairman but as an observer, and said that given new material at the meeting today, he believed it appropriate to deem the CCSL as the regulatory line controlling construction on beachfront property. All through this process, Mr. McKee said, he had hoped that some compromise could be reached and he believed this to be a fair and just compromise.

Attorney Kim Kobsa, representing Mr. and Mrs. Joseph Herms, spoke at great length regarding his client's property rights. He then cited a case-in-point Porpoise Point Partnership, etc., Petitioner, v. St. Johns County, etc., Respondent, 532 So. 2d 727 (Fla. App. 5 Dist. 1988). This suit involved an imposed special development zoning status on property which Attorney Kobsa interpreted as being directly related to the proposed Plan's designation for his clients' property. Staff advised that a planned development (PD) and general development site plan (GDSP) all are initiated upon the property owner's submitted petition to the City. City Attorney Rynders added that the City does not provide property owners with site plans as was the case in the St. Johns County lawsuit; therefore, he did not believe this Appellate decision in any way affected the City of Naples.

After the public hearing was closed, Councilman Richardson moved to accept portions of the language submitted by Alan Reynolds of Wilson, Barton, Miller, Soil and Peck, herein included as Attachment #8, as follows: "that Council accept the wording of Mr. Reynolds' January 4, 1989, memorandum, with the exception of the density proposal". This would, in effect, not accept changes to Objective 6, page 13, of the Plan outlined in Mr. Reynolds memo. Mr. Richardson said. Mr. Barnett seconded the motion.

Mr. Crawford suggested that the motion be amended to include the proposed CCSL,* in Policy 2-9, page 5, of the Plan. Messrs. Richardson and Barnett accepted this amendment. Mr. Reynolds advised that he would abide by the adopted CCSL.

After a brief discussion regarding future proposed placement of the State CCSL, Councilman Graver said that he believed the City should accept staff's recommendation and approve the Plan based on construction landward of the FEMA line since that is an already established line.

Mayor Putzell restated the motion which was to accept the recommended compromise contained in Mr. Reynolds' memorandum, dated January 4, 1989, having

AMENDED: (01/18/89) to read:
and any change that would move
that line landward, as stated....

COUNCIL
MEMBERS

MOTION	YES	NO	ABSENT
131			

to do with the new proposed CCSL, yet to be determined. Also, including the performance standards set forth by the Department of Natural Resources (DNR), eliminating the density formula that is set forth in Paragraph 2 of the memorandum, and precluding the provisions on the second page, particularly, items 3 and 4.

In response to Mrs. Anderson-McDonald, Community Development Director McKim advised that it would be possible to place homes seaward of the CCSL if the aforementioned motion was approved. Natural Resources Manager Staiger pointed out that there was a request before the FAB which does not specify placement of homes seaward of the CCSL. Councilman Anderson-McDonald referred to Mr. Reynolds statement at the last meeting wherein he advised that he would ask for variances from the CCSL. Mr. Reynolds clarified that his clients could request variances to the CCSL in the non-COBRA area if the proposed language were approved.

MOTION: To AMEND the Comprehensive Plan as outlined in Mr. Reynolds' memorandum of January 4, 1989, and restated above. *

Councilman Crawford said that while he believed 9J5 logically tried to restrict construction in high hazard areas, he was uncertain as to which line was most applicable. Inasmuch as the State's determination of the CCSL is used as a tool for restricting construction, he would vote yes.

Mayor Putzell commended the parties involved on their ability to reach a compromise.

MOTION: To ADOPT the ordinance as presented at second reading with the aforementioned amendment.

Mrs. Anderson-McDonald said that since action taken at this proceeding negated her comments regarding construction along Key Island, her vote meant nothing; therefore, she would vote yes.

-----END ADVERTISED PUBLIC HEARINGS-----

CORRESPONDENCE AND COMMUNICATIONS:

Mrs. Anderson-McDonald asked Council to consider establishing some sort of commemoration for George Pittman, who passed on recently, and who was a very valuable member of the community. His efforts and participation in the little league affiliation resulted in a skilled softball league for the children.

Councilman Barnett suggested that it might be appropriate for the softball field at Fleischmann Park, which is the home of a sign congratulating the girls' softball team for their State win, to be designated as the George Pittman Field. City Manager Jones recommended that this suggestion be forwarded to the Parks and Recreation Advisory Board for further comment. He also expressed concern that this might set a precedent and urged Council to

AMENDED: (01/18/89)
to read: by Councilman
Crawford.

Anderson-McDonald
Barnett
Crawford
Graver
Muenzer
Richardson
Putzell
5-2

Anderson-McDonald
Barnett
Crawford
Graver
Muenzer
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Putzell
7-0

COUNCIL
MEMBERS

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consider a set of criteria by which to evaluate such requests. Mayor Putzell directed staff to compile such standards.

After a brief discussion regarding the appropriateness of this request, Mrs. Debbie Cook spoke regarding Mr. Pittman's past achievements and virtues. She said that it was important the children know recognition is appropriate in this instance. Councilman Muenzer concurred.

Mr. Barnett moved to name a portion of Fleischmann Park, where the girls' softball league plays, in honor of George Pittman, providing that there are no objections from the Parks and Recreation Advisory Board. Mrs. Anderson-McDonald seconded the motion.

Mayor Putzell asked the members of Council, as well as the City Manager and City Attorney, to consider attending the Collier County Commission meetings. It seems that at the last minute items regarding the City are placed on their agenda without any notification to the City to enable it to provide representation. Attendance at these meetings can be accomplished, he said, on a rotation basis which would mean that once every two or three months each member would have to serve. Councilman Crawford took exception to this request and asked to be left off the schedule as he did not believe it necessary.

After a brief discussion regarding the possibility of a staff member attending these meetings, Council directed the City Manager to arrange a schedule assigning each Council member, the City Attorney and himself to attend those meetings.

Mayor Putzell then announced that there would be a Neighborhood Town Meeting held on January 11, 1989 at the Norris Community Center for Precinct 14.

ADJOURN: 1:56 p.m.

EDWIN J. PUTZELL, JR., Mayor

JANET CASON
CITY CLERK

JODIE M. O'DRISCOLL
DEPUTY CLERK

These minutes of the Naples City Council were approved on January 18, 1989.



City of Naples

EDWIN J. PUTZELL, JR.
MAYOR

(813) 649-3448

P R O C L A M A T I O N

WHEREAS, Martin Luther King had a dream that one day "this nation would rise up, live out the true meaning of its creed: We hold these truths to be self-evident, that all men are created equal"; and

WHEREAS, Martin Luther King had the profound belief that nonviolence must be the answer to crucial political and moral questions of our time; and

WHEREAS, Martin Luther King, Jr. gave his life in the pursuit of the American dreameconomic, social and political justice for every American; and

WHEREAS, the Congress of the United States has declared the birthdate of Martin Luther King, Jr. to be a National Holiday in memory of Martin Luther King, Jr.'s outstanding contribution to liberty, freedom and justice; and

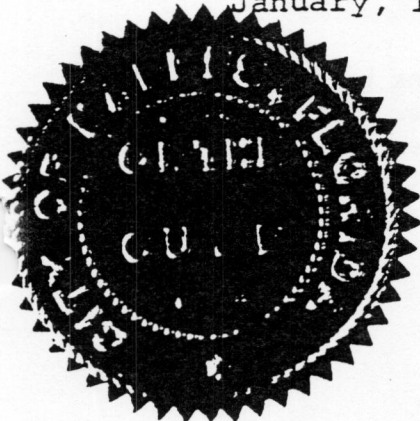
WHEREAS, the City of Naples, as a part of these United States, does hereby declare that the celebration, sponsored by the Collier County Branch of the National Association for the Advancement of Colored People on January 16, 1989, at Cambier Park, to be the official recognition of the National Holiday.

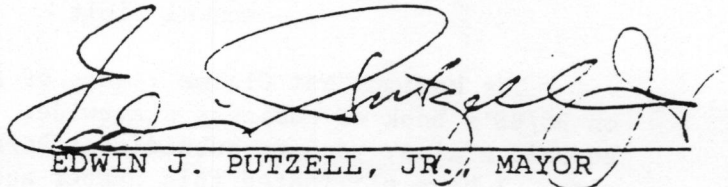
NOW, THEREFORE, I, EDWIN J. PUTZELL, JR., by virtue of the authority vested in me as Mayor of the City of Naples, Florida, do hereby proclaim January 16, 1989, to be

MARTIN LUTHER KING, JR. DAY

in the City of Naples and urge all citizens to join in observance of this day.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of January, 1989.




EDWIN J. PUTZELL, JR., MAYOR

November 15, 1988

Mr. Frank W. Hanley, Finance Director
City of Naples
735 Eighth Street, South
Naples, Florida 33940

Re:BC/BS Renewal Proposal

Dear Mr. Hanley,

I have reviewed the material you sent to me and discussed Mr. Reynolds' letter of October 28th with him at length.

First, I inquired about the final accounting for the previous plan and he advised me that had been settled with a check to the City of \$25,660. The immediate preceding term was fully insured so no accounting was necessary.

Regarding the renewal date indicated as January 1, 1989 as opposed to the Minimum Premium Accounting Agreement date of February 1, he said that was your request because you wanted to keep a calendar year anniversary date. The net effect, of course, is an eleven month contract thus shortening the guaranteed maximum loss period by one month.

BC/BS's analysis is based on 12 months' experience ending August 31, 1988, four months prior to the beginning of the next contract year assumed to be January 1. This leads to the questions I have regarding the validity of the proposed renewal rates.

I question the trend factor of 1.247% applied to the paid claims, an annual percentage rate of 18% compounded monthly for 16 months. To me, this is an overlapping of four months because last year's trending should have applied through December of this year. We've already expended 5/8ths of these last four months so claims that have already been paid are being trended. 18% compounded monthly for 12 months would equal 1.196%.

Paid Claims	\$703,886
Trend Factor	x 1.196
Expected Claims	\$841,848
Margin Factor	x 1.100
Annual Limit	\$926,032

The Maximum Net Claims figure of \$915,755 used in the proposal is based on BC/BS's book of business statewide. Since it is greater than your expected paid claims, you are subsidizing BC/BS's losses on other accounts of your size. I have eliminated this number and the credibility factor.

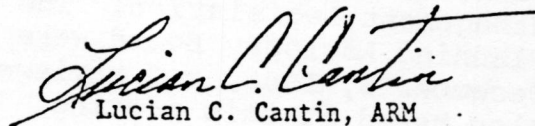
The margin factor is BC/BS's "insurance" in case the expected claims estimate proves to be insufficient. I don't think we could sustain an argument against that. So the annual limit I am suggesting reflects a 20% increase rather than 25.6%.

Turning now to the minimum premium rates, currently \$9.19 single and \$22.39 family. I'm told the proposed rates of \$12.41 and \$30.14 respectively represents an increase in workload "because claims in the second year reflects a mature group or 12 full months of claims." I have difficulty buying that reasoning. As Mr. Reynolds points out, it represents 12.5% of projected claims. Basically, this is the retention and if we can convince BC/BS to lower the expected claims number, these rates should be reduced accordingly.

A copy of this letter is being sent to Mr. Reynolds. I think it adequately reflects my views; now, we will have to wait for his response to these concerns.

If you have any questions, please call me.

Very truly yours,



Lucian C. Cantin, ARM

LCC:1

cc: Mr. Robert F. Reynolds, Account Executive
Blue Cross Blue Shield of Florida
Ft. Myers District Office
12811 Kenwood Lane, Suite 101
Fort Myers, Florida 33907-5688



1/4/89

Attachment #4 - Page 1

City of Naples

--- MEMO ---

TO: HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: CITY MANAGER FRANKLIN C. JONES

SUBJECT: SECOND READING OF ORDINANCE TO ADOPT THE
COMPREHENSIVE PLAN

DATE: DECEMBER 21, 1988

BACKGROUND: On December 14, 1988, City Council heard the first reading of the ordinance to adopt the Comprehensive Plan, as revised in accordance with the Florida Growth Management Legislation. The recommendations from the Planning Advisory Board were summarized by a Memo dated December 9, 1988, and reviewed by Council. Public input was also heard at this meeting. City Council approved the first reading subject to the changes outlined below.

This memo includes all of Council's recommended changes to the December 4, 1988 draft of the Comprehensive Plan. These changes include the recommendations of PAB, the recommended Traffic Circulation Element revisions as suggested by staff and FDOT (Section 3), the two changes recommended by Councilman Muenzer (Section 1E, and Section 2D), and the annexation charts which were not finalized for the December 9, 1988 meeting (Section 4).

1. Future Land Use Element

- A. Objective 15, on page 18 of this element, regarding annexation, should read:

"As consistent with Section 163.3202, Florida Statutes, and as a result of annexation, the City will thoroughly study the annexation area to identify inconsistencies between County and City land use regulations within the annexation area and develop mechanisms to resolve those inconsistencies to determine the most appropriate land use designations and zoning districts."

- B. In the section discussing annexation, add the following to page 30:

"The following page contains the conversion chart for zoning, as well as future land use designations for the annexation area. These are used to show the transfer of land use and zoning designations from County to City. The City recognizes that these are generalized maps and guidelines and that additional study will be required to better analyze vacant and developed lands to determine the most appropriate development and design standards for these areas.

There are several unique land use areas (such as Jungle Larry's African Safari and Caribbean Gardens) within the annexation area which might not fit well into the proposed land use designations. However, the land use designations and maps, and proposed zoning districts found in the conversion chart are considered appropriate at this time based on the best available data. Upon approval of annexation, further study and analysis of land uses, neighborhoods, and areas of special concern will be carried out. The study of the annexation area will be directed towards appropriate future land uses and will consider compatibility of land uses, protection of stable residential areas, traffic capacity, and the impact on established levels of service for public facilities as designated in this Plan. It is recognized that a result of this additional study of the annexation area may result in an amendment to the Comprehensive Plan, Future Land Use Map and zoning maps."

- C. Section 163.3202 of Florida Statutes recognizes that one year after revised comprehensive plans are submitted for review, (August, 1989 for Naples), each municipality shall adopt land development regulations consistent with, and to implement their adopted plan. It is our understanding that this deadline may be extended by the legislature next summer. The PAB recommended that all references in the Plan relative to carrying out this requirement which include the date "August, 1989" be changed to "as consistent with Section 163.3202 Florida Statutes". This will give us more time to implement the Plan if this deadline is amended without requiring us to amend the Comprehensive Plan to change the dates.

- D. The PAB recommended allowing limited residential development in high hazard areas on Key Island at the Keewaydin Club area which is approximately 30 acres and is not a part of the COBRA designated area, and prohibiting development in other high hazard areas. This requires us to change the Future Land Use Map (see attached map and also changes listed under the Conservation and Coastal Management Element proposed changes for more details).
- E. Land Use 47, second paragraph was revised, deleting the third sentence "A commercially zoned block between 6th and 7th Street and 3rd and 4th Avenue South is expected to change in the future. This block should be developed for office use only."

2. Conservation and Coastal Management Element

- A. Policy 2-9, on page 5 of this element, pertaining to development in the high hazard area was changed to read (new wording added by PAB is underlined):

"The Community Development Department will develop and recommend to City Council two conservation zoning districts: (1) Providing for conservation/vital areas which include COBRA high hazard areas; and, (2) providing for conservation/limited development areas which includes high hazard non-COBRA areas. These zoning districts will address the transfer of development rights from the Federal Emergency Management Area designated "V" zones, hurricane contingency planning requirements and performance standards for limited development in high hazard non-COBRA areas and the provision of infrastructure without the use of public funds. They will be consistent with the goal, objectives and permitted uses stated in the Conservation and Coastal Element of this plan."

- B. Objective 6, on page 13, pertaining to infrastructure in high hazard areas was changed to read (new wording added by PAB is underlined):

"In order to direct forecasted population away from known or predicted high hazard areas, new residential development in coastal high hazard areas will be limited in residential density levels to the MC zoning district to be established for Conservation/Limited Development areas. Public expenditures for new development in coastal

high hazard areas will be limited to the few remaining infill lots. In accordance with Section 163.3202 of Florida Statutes, a post disaster redevelopment policy will be developed following the guidelines described in Section D4 (d) of this element to address development and redevelopment to reduce exposure of human life and property to natural hazards."

- C. The sentence beginning with "It is the intent to restrict" in Section 5 at the top of page 44 of this element was changed to read:

"It is the intent to restrict publicly funded infrastructure in high hazard areas only to those few remaining infill lots."

- D. The last paragraph beginning with the sentence "In order to comply..." in section (f) High Hazard Areas on page 58 of this element was changed to read:

"In order to comply with Section 9J5.012 (3) (b), Florida Administrative Code concerning coastal management objectives, residential development in high hazard areas will be permitted only in those areas which are not COBRA, Coastal Barriers Resource System, designated areas and the few remaining infill lots north of Gordon Pass.

This policy directs population concentrations away from high hazard areas by limiting development to those areas as shown on the future land use map. Therefore, a limited amount of development may be permitted on Key Island provided the following conditions exist: no public funds will be used for required infrastructure; any development orders issued for this area must consider that the majority of the development has been proposed for areas outside of the high hazard area; beach and dune protection systems must be provided; and adequate hurricane evacuation plans have been provided. (This paragraph is the revision adopted by Council)

- E. Table C6 on page 52 should be changed as follows:

Under VITAL: f) High Hazard Areas - Within COBRA areas

Under LIMITED DEVELOPMENT: d) High Hazard Areas - Within non-COBRA areas.

3. Traffic Circulation Element

A. These revisions were the result of a meeting with representatives from the Florida Department of Transportation. They are as follows:

Policy 2-10: The City will develop access management standards involving driveway permits, roadway crossings and median cuts by 1990.

Policy 2-11: Corridor preservation standards shall be developed through coordination with MPO, utilizing guidelines set by DOT.

Program 1-3: Review proposed development in the Airport High Noise Impact Area to ensure compatible land uses.

Traffic 16: Second paragraph; "...as listed in T1 were based on the current (November 1988) generalized DOT capacity table for collector roads. The City will use the most recent FDOT table for level of service for collector roadways. The most current FDOT tables will be used as a general indicator of traffic conditions. It is important to understand that these tables are not designed for regulatory purposes, but to signal problem roadway segments which need further study." The rest of the paragraph would be deleted.

The following paragraph will be revised with this wording: "...These capacities are used for City maintained collectors as a general guideline only. Only through analysis of the unique characteristics of each individual roadway can the actual capacity be determined. FDOT Highway Capacity Manual methodology will be used as described in detail below."

Traffic 17: Chart must now be based on DOT standards.

Traffic 23: 4th paragraph; "This annual peak hour peak season level of service will be compared against the most current DOT standard resulting in one of the following:" (for roads with an adopted LOS of C)

"2) If the current LOS measured is nearing D, quarterly counts will be taken and analyzed for a peak hour/peak season count. A detailed study of the capacity of the roadway, consistent with the 1985 DOT highway Capacity Manual A, will be done before the initial quarterly count is taken. If the annual

monitoring count is very similar to the roadway capacity identified through this methodology, the quarterly counts will continue. Preliminary discussions with Planning Advisory Board and City Council addressing mitigation action will begin. If the adopted individual standard has increased capacity in comparison to the DOT standards, quarterly counts will be suspended until the annual count nears the adopted individual road capacity."

"3) If the current LOS measured is D, and the LOS was C or better last year, quarterly counts will be taken and analyzed for peak hour peak season count. A detailed study of the capacity of the roadway, consistent with the 1985 DOT highway Capacity Manual A, will be done before the initial quarterly count. If the annual monitoring count is very similar to the roadway capacity identified through this methodology, the quarterly counts will continue. Preliminary discussions with Planning Advisory Board and City Council addressing mitigation action will begin. If the adopted individual standard has increased capacity in comparison to the DOT standards, quarterly counts will be suspended until the annual count nears the adopted individual road capacity. If three consecutive counts, which may include the annual count, show the LOS to be D (in relation to the adopted individual LOS standard) then the roadway segment enters a transitional period..."

Traffic 24: 8th paragraph (for roads with an adopted LOS of D standard); "2) If the current LOS measured is nearing E, quarterly counts will be taken and analyzed for a peak hour/peak season count. A detailed study of the capacity of the roadway, consistent with the 1985 DOT highway Capacity Manual A, will be done before the initial quarterly count. If the annual monitoring count is very similar to the roadway capacity identified through this methodology, the quarterly counts will continue. Preliminary discussions with Planning Advisory Board and City Council addressing mitigation action will begin. If the adopted individual standard has increased capacity in comparison to the DOT standards, quarterly counts will be suspended until the annual count nears the adopted individual road capacity.

"3) If the current LOS measured is E, and the LOS was D or better last year, quarterly counts will be taken and analyzed for peak hour peak season count. A detailed study of the capacity of the roadway, consistent with the 1985 DOT highway Capacity Manual A, will be done before the initial quarterly count. If the annual monitoring count is very similar to the

roadway capacity identified through this methodology, the quarterly counts will continue. Preliminary discussions with Planning Advisory Board and City Council addressing mitigation action will begin. If the adopted individual standard has increased capacity in comparison to the DOT standards, quarterly counts will be suspended until the annual count nears the adopted individual road capacity. If three consecutive counts, which may include the annual count, show the LOS to be E (in relation to the adopted individual LOS standard) then the roadway segment enters a transitional period..."

Traffic 25: 8th paragraph (for roads with an adopted LOS of E) "2) If the current LOS measured is nearing F, quarterly counts will be taken and analyzed for a peak hour/peak season count. A detailed study of the capacity of the roadway, consistent with the 1985 DOT highway Capacity Manual A, will be done before the initial quarterly count. If the annual monitoring count is very similar to the roadway capacity identified through this methodology, the quarterly counts will continue. Preliminary discussions with Planning Advisory Board and City Council addressing mitigation action will begin. If the adopted individual standard has increased capacity in comparison to the DOT standards, quarterly counts will be suspended until the annual count nears the adopted individual road capacity.

Traffic 26: 3rd paragraph "1) If the volume of traffic of any segments is nearing a lower LOS, quarterly traffic counts will begin for that segment. A detailed study of the capacity of the roadway, consistent with the 1985 DOT highway Capacity Manual A, will be done before the initial quarterly count. If the annual monitoring count is very similar to the roadway capacity identified through this methodology, the quarterly counts will continue. Preliminary discussions with Planning Advisory Board and City Council addressing mitigation action will begin. If the adopted individual standard has increased capacity in comparison to the DOT standards, quarterly counts will be suspended until the annual count nears the adopted individual road capacity. A report of these findings will be transmitted to the PAB..."

"2) If any of the segments have had their annual count fall below the LOS standard, quarterly counts will begin for these segments. A detailed study of the

capacity of the roadway, consistent with the 1985 DOT highway Capacity Manual A, will be done before the initial quarterly count. If the annual monitoring count is very similar to the roadway capacity identified through this methodology, the quarterly counts will continue. Preliminary discussions with Planning Advisory Board and City Council addressing mitigation action will begin. If the adopted individual standard has increased capacity in comparison to the DOT standards, quarterly counts will be suspended until the annual count nears the adopted individual road capacity. Three consecutive counts below LOS, ..."

- B. Under subsection (c) Gordon Drive south of Kingstown Drive on page 38 the sentence beginning with "In order...", change the sentence to add the word "transient" after the words "encourage further".

"In order to protect the residential character of the neighborhood, the city should not allow road or parking improvements which would encourage further transient use of the roadway."

4. Staff has the following additional changes which we recommend be added to the Future Land Use Element. This information fulfills procedural requirements for the annexation area. The data had not been analyzed at the time of the PAB recommendation, but is now available for your review. This includes data and analysis of housing and land uses of the annexation area. This information is included on the following charts:

APPROXIMATE ACREAGE BY LAND USE CATEGORY

ANNEXATION AREA, 1986

Land Use/Density	Park Shore Area	Remaining Area
Urban Residential		
Low - High Density	172.60	1,460.9
Commercial and Services		
30 - 50% lot coverage	11.03	186.9
Institutional, educational government, religious	0	43.84
Urban undeveloped/vacant	13.11	200.78
Recreation, golf courses, parks, beaches	33.18	898.47
Orchards, scrub, brushland	0	188.92
Forests, wetlands	0	910.58
Water	0	58.76
TOTAL	229.92	3,949.15

TOTAL acreage of both areas 4,179.07

Source: Collier County Planning Department 1988, City
Planning Division, 1988

PROJECTED COMMERCIAL LAND USE NEEDS
IN THE ANNEXATION AREA 1993-1998

	1987 Developed Commercial Acres	Total Land Acres Needed 1993	1998
Annexation Area (Total)	197.93 (9,936)*	132.96 (13,296)	177.92 (17,792)
Park Shore	11.03 (915)	12.24 (1,224)	16.37 (1,637)
Remaining area	186.9 (9,021)	120.72 (12,072)	161.55 (16,155)

* Population figures are within ()

Source: City Planning Division, 1988. Commercial land use needs in the annexation area were determined by applying the same ratio (0.01 acres) of developed commercial acres per person as is found in the county.

LAND NEEDED TO ACCOMMODATE GROWTH*
IN ANNEXATION AREA 1993 - 1998

	1989 - 93		1994 - 98	
	Park Shore	Other	Park Shore	Other
Multifamily (.08 acres)	11.36	63.2	18.48	102.8
Single Family (.23 acres)	0.7	89.47	1.15	145.36
Total acreage Needed	164.73 acres		267.79 acres	

Source: City Planning Division, 1988

* Acreage calculations are approximated using the following 1987 ratios: Park Shore 2% Single Family (SF), 98% Multifamily (MF), Other area 33% SF, 67% MF (from 1980 Census data). Also, 0.08 acres is minimum area needed for MF unit within the City, 0.23 acres (10,000 sq ft) is average lot for SF within the city

CONCLUSION AND RECOMMENDATION: Based on the above, I respectfully recommend that City Council adopt the revised Comprehensive Plan.

Respectfully submitted,

Franklin C. Jones
City Manager

Revised by:

Trish Heinonen

Trish Heinonen, Planner II

Reviewed by:

Missy McKim

Missy McKim, Community Development Director

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

2740 CENTERVIEW DRIVE • TALLAHASSEE, FLORIDA 32399

BOB MARTINEZ
Governor

THOMAS G. PELHAM
Secretary

January 4, 1989

Mr. Edwin J. Putzell, Jr.
The Mayor of Naples
735 Eighth Street, South
Naples, Florida 33940

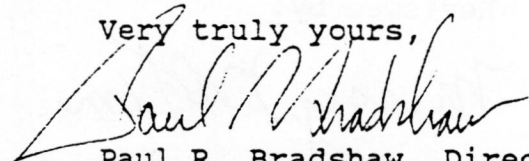
Dear Mayor:

In response to the City's request of November 23, 1988, the Department of Community Affairs has sent a representative to participate in today's public hearing to adopt the proposed City of Naples comprehensive plan.

The Department's representative is authorized to restate our position as expressed in the Department's November 10, 1988 Objections, Recommendations and Comments Report, and to listen to input from all parties. It is the Department's position that the adoption public hearing is not the proper forum for modifying the Department's position or approving proposed revisions to the comprehensive plan. The Department's representative is without authority to modify the Department's position or approve proposals discussed at the public hearing.

The Department's role with respect to approving proposed revisions will begin upon adoption and submittal of the comprehensive plan pursuant to Chapter 9J-11.011, Florida Administrative Code. If I may be of further assistance in this matter, please contact me at (904) 488-2356.

Very truly yours,



Paul R. Bradshaw, Director
Division of Resource Planning
and Management

PRB/mmw

HOLE, MONTES & ASSOCIATES, INC.

Consulting Engineers — Land Surveyors

6202F Presidential Court
Fort Myers, FL 33919
(813) 481-7874

715 Tenth St., South
P.O. Box 1586
Naples, FL 33939
(813) 262-4617
X

10550 Abernathy Street
Bonita Springs, FL 33923
(813) 982-0795

January 1, 1989

Mayor Edwin J. Putzell, Jr.
3033 Rum Row
Naples, Florida 33940

Re: ACLF Housing Amendment
HMA File No. 88.112

Dear Mayor Putzell:

We are appearing before you one January 4th once again to seek you assistance in helping us to amend the map for the annexation area. Our request is now to amend the map to permit Urban Planned Development (UPD) rather than the low density designation currently depicted on the map. You may recall our previous request to you was to request a medium density land use designation. (see attached a copy of our prior request to you).

We believe our request is even more germane at this time, because since we met with you last we have filed a Development Agreement with your Community Development Department requesting that our future zoning request be processed as a Planned Development (PD). As a result, amending the map to (UPD) is perhaps even more appropriate than our request to permit a medium density land use designation because it better recognizes our prior county zoning approval. In addition, the following factors also support our request:

1. The unique circumstances surrounding this property which include a prior zoning approval specifically for an elderly housing project.
2. While that zoning for a Provisional Use has expired, the land was cleared, filled, and a foundation and stem walls are presently in place.
3. That since that zoning classification was approved, commercial and institutional land uses have been approved on both sides of the property which clearly justifies a more intensive land use classification than low density.

Mayor Edwin J. Putzell, Jr.
January 1, 1989
HMA File No. 88.112
Page Two

4. While the Development Agreement may be substituted for amending the Comprehensive Plan Map at a later date, in our opinion this is still an awkward fit to construct what is obviously a medium intensity land use with a low density land use map designation. Furthermore, elderly housing is a permitted conditional use beginning with the "R3-12" Zoning District which in our opinion also supports the need for a medium density or (UPD) land use designation.
5. Your staff at the last meeting indicated that they believed this use in concept was an appropriate use at this location. Their only objection seemed to be that as a general policy they were not supporting any changes to the map. We do not believe this is a sufficient reason.
6. Finally, in requesting that this UPD be placed on the map in conjunction with our proposed Development Agreement, we recognize that the final development plan and zoning will be subject to public scrutiny and that of adjoining property owners prior to receiving any final development approvals. Furthermore, good planning practices and the unique history of the property all merit your consideration that the (UPD) designation be approved by you.

Once again, we would like to thank you in advance for your consideration in this matter.

Very truly yours,

HOLE, MONTES AND ASSOCIATES, INC.



Robert Duane, A.I.C.P.
Planning Director

RD/hhg

enclosures

cc: Missy McKim

HOLE, MONTES & ASSOCIATES, INC.

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Bonita Springs, FL 33923
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December 13, 1988

Mayor Edwin J. Putzell, Jr.
3033 Rum Row
Naples, Florida 33940

Re: ACLF Housing Amendment
HMA File No. 88.112

Dear Mayor Putzell:

The purpose of this memo is to set forth our rationale for an amendment to the Comprehensive Plan for the City of Naples.

I. The Request

1. Our request is to amend the Land Use Plan Map for the annexation area for a parcel of land located on the north side of Baily Road and west of Airport Road. This request is necessary because the annexation map, that was recently adopted by your Planning Advisory Board last week, placed a low density land use designation on my clients property which is unfavorable for our long term planning objectives. Unfortunately, we only recently learned of this after the Planning Advisory Board had recommended their approval of this plan. (See attached location map of the subject property.)

This request is important to us because we previously had a similar zoning classification approved by the County, but the zoning classification has since elapsed. Currently, we are in the process of revamping our request to the County when we learned of your annexation plans.

2. While we are also presently in the process of formulating a development agreement with the City of Naples to establish future guidelines for rezoning of the property, we have also recently learned that language in the Land Use and Housing Elements of the proposed Comprehensive Plan does not fully provide opportunities to encourage Adult Congregate Living Facilities (ACLF) or recognize the unique opportunities and challenge it affords.

Mayor Edwin J. Putzell, Jr.
December 13, 1988
Page 2

II. ACLF Housing Defined

Our objective is to provide an Adult Congregate Living Facility which is independent living through interdependency. Specifically, this is housing for the elderly to provide for their specific needs which are different than the general population. This housing type can be generally defined as follows:

1. A building or buildings containing dwellings and related facilities, such as dining, recreational services, therapy areas, medical care and similar related personal and professional services. Such uses may include facilities for independent and semi-independent living of a complimentary and compatible nature, to ensure elderly residents a secure, independent, and rewarding lifestyle.
2. Housing for the elderly is typically constructed at higher densities than conventional housing types. The rationale is that elderly persons generate less automobile trips and somewhat lesser amounts of water, sewage, and solid wastes than the general population at the same density. Similarly, these projects have no impact on schools, and little impact on parks since these projects often provide their own recreational facilities. Similarly parking requirements are typically less. The most common ratio is one parking space for every three or four dwelling units, although ratios may vary from one space for every three dwelling units to every four or five dwelling units. The lower parking requirements for housing for the elderly therefore reflect lower trip generation rates which have less impact on roadways.

In some summary, based on the foregoing and the wide variation in the type and intensity of housing projects for the elderly, we propose that such housing types be permitted to vary from the density shown on the land use map provided, the use is compatible with adjoining land uses and the impacts related to traffic, schools, sewer, water, open space and the like are not dissimilar than would be accorded to typical land use designations depicted on the Comprehensive Plan Map for medium and high density residential areas.

3. Our experience has shown that successful projects need to have a full range of complimentary and compatible uses. When dealing with elderly housing projects, it is more than just how many dwelling units are accorded

Mayor Edwin J. Putzell, Jr.
December 13, 1988
Page 3

the project, it is providing amenities unique to the aging population to provide opportunities for independent and dependent living, and a rewarding quality of life. This housing type, therefore, since it takes on the characteristics of both residential and institutional land uses, does not always fall into a discrete land use classification which also supports the need for our amendment requests.

III. Existing Conditions

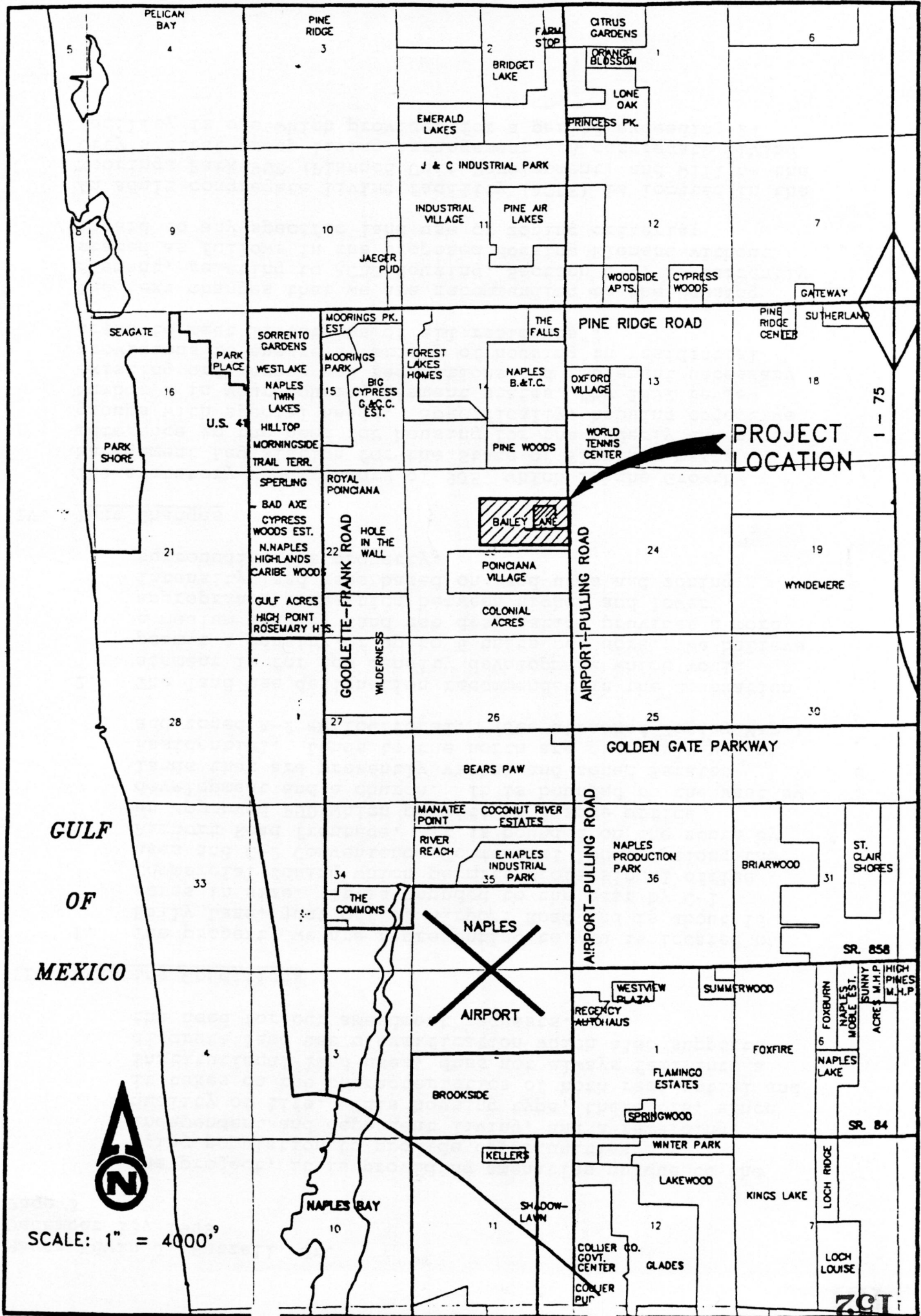
1. The property we are representing to you is located on Baily Lane, just off of Airport Road and is about 15 acres in size. It is bounded to the east by C-1 Commercial Zoning which permits professional office uses and C-2 Convenience Commercial located along the Airport Road frontage. It is bounded on the south by an approved PUD which permits an 8 acre office development and a church. It is bounded to the west by lands that are presently vacant and zoned Estates Residential. Lands to the north are presently vacant and zoned A-2 agricultural. (See attached Zoning Map.)
2. The land use designation recommended in the annexation element is for low density development which would permit a density of up to 6 units per acre. We believe a medium density land use designation provides a more appropriate transition between higher and lower intensity land uses based on land uses and zoning surrounding the property.

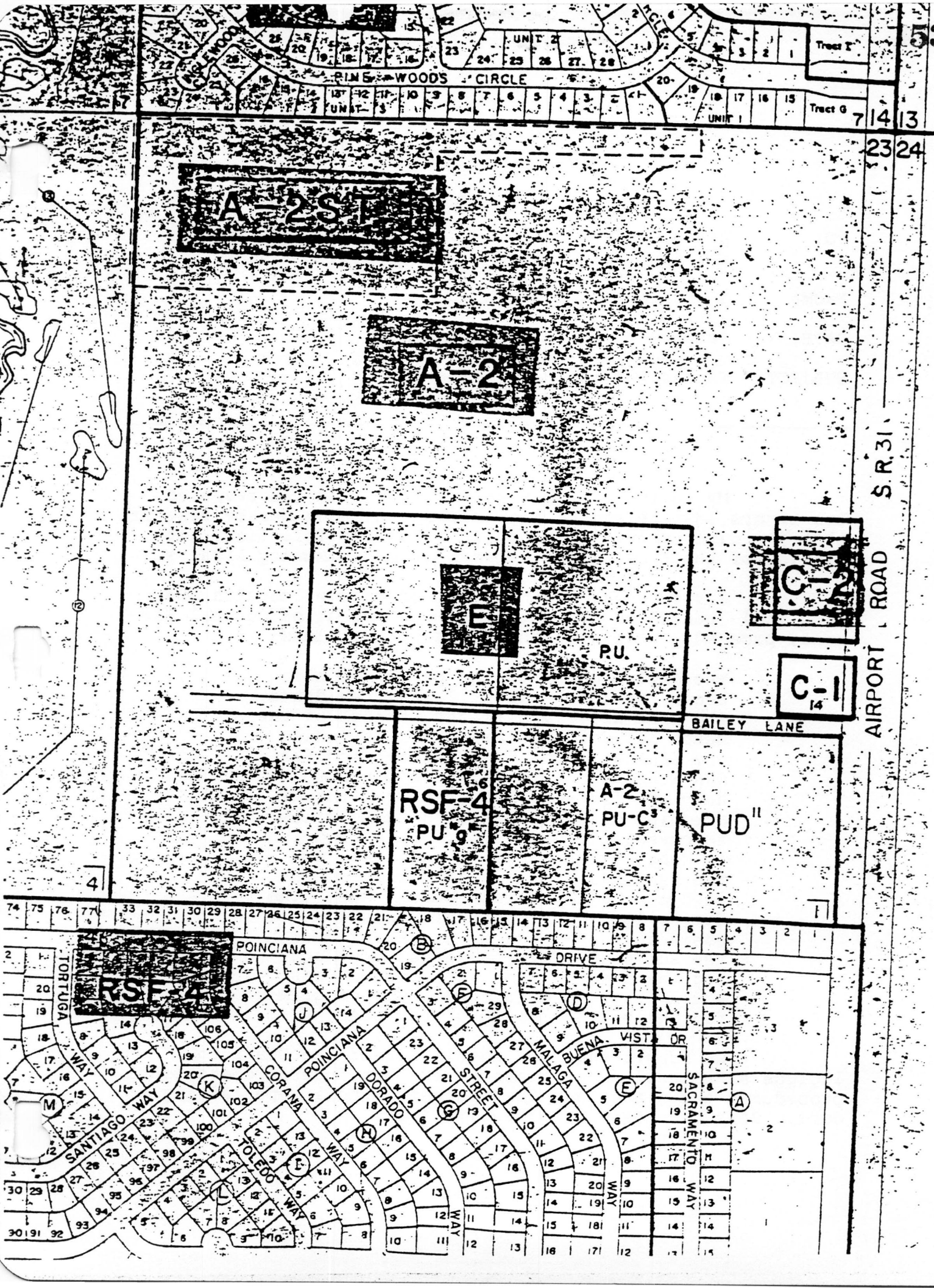
IV. Text Changes

The statutory requirements of 9J5, which is the Growth Management Legislation for the State of Florida, makes reference to the need for housing for the elderly and other groups with special needs. Specifically, housing objective Number 2 in your Housing Element states, "by 1992 review existing ordinances and regulations and implement necessary provisions to ensure a variety of housing in residential areas to meet lifestyles of all residents".

The text changes that we are recommending to the Housing Element, relating to ACLF Housing, Section C-7, is currently stated as follows in the proposed Housing Element without regard to any specific land use or zoning criteria:

An adult congregate living facility (ACLF) is located in the Moorings Park PUD (Planned Unit Development) and will be the City's first group living arrangement. A congregate living facility is one which provides for a period exceeding 24





M E M O R A N D U M

TO: David Rynders, Esq.
cc: Key Island, Inc.

FROM: J. Dudley Goodlette

DATE: January 4, 1989

SUBJECT: Naples Comprehensive Plan

My review of the Comprehensive Plan has revealed two errors that relate to Key Island, which we hereby request that you direct the City Staff to address before final submission of the Plan to the Department of Community Affairs.

First, regarding habitats of special concern, Section 3(e) Beach and Dune Systems - Conservation/Coastal Element, page 40. That section provides as follows:

The Naples beach is the primary public beach for most Collier County residents. The most heavily utilized stretch of the beach is, unfortunately, also eroding the fastest. The City has applied for DNR Erosion Control Program funds to help pay for sand transfer from future dredging of Gordon Pass to these areas to curtail this erosion. This dredging is done by the Corps of Engineers and the sand has traditionally been deposited at the Key Island beach area. The City will request federal funds for assistance when the Corps establishes the administrative mechanism. Relocating the dredged sand from Gordon Pass would be a beach renourishment program for the beaches north of the pier.

We submit that you should direct the Staff to include an acknowledgment that under both federal operational procedures and state law, the management policy pertaining to Gordon Pass dictates as follows:

(1) All construction and maintenance dredgings of beach-quality sand should be placed on the downdrift beaches; or, if placed elsewhere, an equivalent quality and quantity of sand from an alternate location should be placed on the downdrift beaches. F.S. Section 161.142(Supp. 1986).

Secondly, regarding coastal barrier Section 4, Conservation/Coastal Element, page 42, the fourth full paragraph indicates that "the beach/dune portion of Key Island fluctuates in a typical barrier beach manner . . ." As indicated in Dr. Michael Stephen's report we have submitted to you and to members of the City Council on January 3, 1989, this statement is not true. Because Gordon Pass is an artificially created, "managed inlet", the sediment transport processes on the northern portion of Key Island are not that of a "typical barrier beach". This important factor should be acknowledged in the Comprehensive Plan.

We hereby respectfully request that these issues be addressed by the City Staff before final submission of the Naples Comprehensive Plan to the Department of Community Affairs.

PROPOSED CHANGES TO THE CONSERVATION
AND COASTAL MANAGEMENT ELEMENTSubmitted by: Alan D. Reynolds
January 4, 1989

1. Policy 2-9, on page 5 of this element, pertaining to development in the high hazard area should be changed to read:

"The Community Development Department will develop and recommend to City Council two conservation zoning districts: (1) Providing for conservation/vital areas which include COBRA high hazard areas seaward of the Coastal Construction Control Line, and, (2) providing for conservation/limited development areas which includes high hazard non-COBRA areas and COBRA areas landward of the Coastal Construction Control Line. These zoning districts will address the transfer of development rights from the Federal Emergency Management Area designated "V" zones, hurricane contingency planning requirements and performance standards for limited development in high hazard non-COBRA areas and the provision of infrastructure without the use of public funds. The performance standards for high hazard limited conservation/development areas shall be the Florida Department of Natural Resources siting criteria and construction standards set forth in Chapter 161, Florida Statutes and Chapter 16B-33 Florida Administrative Code. They will be consistent with the goal, objectives and permitted uses stated in the Conservation and Coastal Element of this plan."

2. Objective 6, on page 13, pertaining to infrastructure in high hazard areas should be changed to read:

"In order to direct forecasted population away from known or predicted high hazard areas, new residential development in coastal high hazard areas will be limited in residential density levels to the MC zoning district to be established for Conservation/Limited Development areas. On Key Island the following density shall apply: non-COBRA areas - one unit per acre; COBRA areas - one unit per two acres. Public expenditures for new development in coastal high hazard areas will be limited to the few remaining infill lots. In accordance with Section 163.3202 of Florida Statutes, a post disaster redevelopment policy will be developed following the guidelines described in Section D4 (d) of this element to address development and redevelopment to reduce exposure of human life and property to natural hazards."

* New wording to be underlined

Alan D. Reynolds
January 4, 1989

3. The last paragraph beginning with the sentence "In order to comply..." in section (f) High Hazard Areas on page 58 of this element should be changed to read:

"In order to comply with Section 9J5.012 (3) (b), Florida Administrative Code concerning coastal management objectives, residential development in high hazard areas will be permitted only in those areas which are not COBRA (Coastal Barriers Resource System) designated areas; COBRA designated areas landward of the Coastal Construction Control Line; and the few remaining infill lots north of Gordon Pass.

This policy directs population concentrations away from high hazard areas by limiting development to those areas as shown on the future land use map. Therefore, a limited amount of development may be permitted on Key Island provided the following conditions exist: no public funds will be used for required infrastructure; any development orders issued for this area must consider that the majority of the development has been proposed for areas outside of the high hazard area; beach and dune protection systems must be provided; and adequate hurricane evacuation plans have been provided.

4. Table C6 on page 52 should be changed as follows:

Under VITAL: (f) High Hazard Areas - Within COBRA areas seaward of the Coastal Construction Control Line.

Under LIMITED DEVELOPMENT: (d) High Hazard Areas - Within non-COBRA areas, and COBRA areas landward of the Coastal Construction Control Line.

* New wording to be underlined

F. Joseph McMackin III

401 Fifth Avenue South

G. Holth Garver

Naples, Florida 33940-6597

Melinda Paniagua Riddle

813 767 5959

Leo J. Salvatori

Telecopier 813 767 6539

Michael J. Volpe

West Palm Beach and Naples, Florida
Phoenix, Arizona*Quarles & Brady*

January 4, 1989

The Honorable Edwin J. Putzell
Mayor
City of Naples
City Hall
735 Eighth Street
Naples, FL 33940

HAND DELIVERED

RE: Petition No. 88-R8 GDSP 88-2 (Mr. and Mrs. John
D. Remington - Keewaydin Club, a Proposed Program
of Improvement and Limited Expansion).

Dear Mayor Putzell:

On behalf of Mr. and Mrs. John D. Remington who hold an Option to purchase the holdings of Key Island, Inc., consisting of 5 acres located at the South end of Gordon Drive, commonly known as the "Shore Station" and approximately 2700 acres on Key Island located just South of Gordon's Pass, we wish to advise you that, notwithstanding the changes in the future Land Use and Conservation/Coastal Elements of the City of Naples Comprehensive Plan, we fully expect that the Remingtons' Petition No. 88-R8 GDSP 88-2 (filed as agent for Key Island, Inc.) which has been on file with the City of Naples since May 12, 1988 will be reviewed and determined under the 1984 Comprehensive Plan for the City of Naples.

At the time when the Remingtons signed the Option to Purchase the holdings of Key Island, Inc. on January 8, 1988, it was their expressed intent to develop that portion of the Island that lies within the City of Naples as a residential community consisting of seventy-five (75) single-family residences. This intention had been communicated to the City's staff including the City's Director of Community Development as well as to the members of the Planning Advisory Board and the City Council as early as the Spring of 1986. Indeed, prior to the submission of their Petition for the Planned Development of Key Island, Mr. Remington along with the various members of his project team met with members of the City staff, members of the Planning Advisory Board and City Councilmen to review with them his plans for the shore station and the residential community to be developed on Key Island.

Although in the Spring of 1988, the City of Naples was in the process of adopting a new Comprehensive Plan for the City of Naples, the Remingtons and the members of their project team were repeatedly assured that the Remington Petition would be reviewed and determined under the existing Comprehensive Plan of the City of Naples.

The Honorable Edwin Putzell
Page 2
January 4, 1989

In fact, at the first hearing for the Planning Advisory Board on the Remington Petition which was held on June 2, 1988, the Chairman publicly announced that the Remington Petition would be reviewed and determined under the 1984 Comprehensive Plan. Again, on June 14, 1988, at the time when the PAB was meeting to consider the land use and conservation coastal management elements of the new proposed Comprehensive Plan for the City of Naples, the Remingtons were again assured of the fact that the Remington Plan would be reviewed and determined under the existing Comprehensive Plan. Furthermore, they were assured that their Plan Development, if approved, would not be affected by any conflict that might arise as a result of any incongruity between their Plan Development and the new Comprehensive Plan that was being prepared for the City of Naples.

The June 2, 1988, Hearing on the Remington Petition was continued until June 29th. At the June 29th hearing, Mr. Remington and the various members of his project team formally presented the Petition for the Planned Development for the Improvement and Limited Expansion of the Keewaydin Club. In each instance, the Planned Development was reviewed to determine its compliance with the 1984 Comprehensive Plan for the City of Naples as well as its consistency with that 1984 Plan. At the conclusion of the June 29th hearing, the hearing was again continued until August 5, 1988. Between June 29th and August 5th, Mr. Remington and the various members of his project team met with members of the staff of the City of Naples including the Community Development Director and the Natural Resources Director for the purpose of providing the City's staff with the additional data and analysis that it was requesting in order to determine whether the Planned Development was in compliance with the existing Comprehensive Plan for the City of Naples.

The Remington Petition was again brought before the Planning Advisory Board of the City of Naples on August 5th. The August 5th hearing lasted almost eight (8) hours. At the conclusion of the hearing, the matter was continued sine die to allow Mr. Remington and his project team sufficient additional time to provide the City of Naples with further data and analysis in order for the Planned Development to comply with the existing Comprehensive Plan for the City of Naples.

At the suggestion of the City, Mr. Remington arranged for a meeting among the members of his project team, the City's staff and representatives of the South Florida Water Management District to review the proposed Surface Water Management Plan for the proposed seventy-five (75) single-family unit development. At the same time, specific

plans were developed for an acceptable wastewater collection system for the residential community. Indeed, the State Department of Natural Resources has issued a Notice of Intent to issue a permit for a subaqueous sewer line connecting the City of Naples Sewer System to the NON-COBRA area of Key Island.

Except for a brief period during the month of August of 1988, representatives of Mr. Remington and of the staff of the City of Naples have been meeting on a regular for the purpose of providing the City with such additional information as it might deem necessary in order for it to determine whether Mr. Remingtons Planned Development is in compliance with the 1984 Comprehensive Plan for the City of Naples.

At all times, Mr. Remington and the various members of his project team have relied in good faith and to their substantial financial detriment on implicit and explicit actions of the City of Naples and its staff in ensuring them that Mr. Remingtons Petition for a Planned Development for the shore station and Key Island would be reviewed and determined under the 1984 Comprehensive Plan for the City of Naples. Specifically, in reliance upon the acts of the City of Naples, Mr. Remington has incurred extensive obligations and expenses totalling almost \$1,000,000.00.

Today, the City of Naples is about to adopt a new Comprehensive Plan for the City of Naples which contains significant changes in both the existing Land Use and Conservation Coastal Management elements that will have a substantial adverse effect on the investment backed expenditures that have been incurred by Mr. Remington in good faith reliance upon repeated assurances that his Planned Development would be reviewed and determined under the existing Comprehensive Plan of the City of Naples.

Under the circumstances, it would be unfair and inequitable for the City of Naples to take the position that Mr. Remington's Petition for a Planned Development for Key Island was to be reviewed and determined under the new Comprehensive Plan for the City of Naples. Fair play and equity demand otherwise.

In order to resolve this matter without the necessity of resorting to the Courts, it is again recommended that the City Council include in its Comprehensive Plan a Savings or Grandfather Clause specifying that the Plan does not effect Petitions for Planned Developments that were filed on or before May 12, 1988, or, in the alternative, a provision authorizing the City to enter into Development Agreements with Developers specifying the nature of the development, the time during which the Developer will be protected from new or changed regulations, and procedures for reviewing and revising the Development Agreement.

The Honorable Edwin J. Putzell
Page 4
January 4, 1989

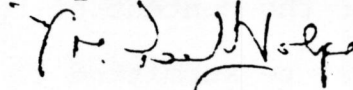
If you have any questions or comments or if you wish to discuss this matter further, I am available to meet with you at your convenience or I would be happy to answer any questions that you may have during the January 4th Public Hearing.

Please include this letter in the record of the City Council hearing held on January 4th for the adoption of the new Comprehensive Plan for the City of Naples.

Thank you.

Very truly yours,

QUARLES & BRADY



Michael J. Volpe

MJV:mw
015/58

cc: David Rynders, City Attorney
John Graver, City Councilman
Kim Anderson McDonald, City Councilwoman
Bill Barnett, City Councilman
Paul Muenzer, City Councilman
Lyle Richardson, City Councilman
Mr. A. (Rudd) Crawford, City Councilman

BURKE, BOSSELMAN & WEAVER

OFFICE MEMORANDUM

TO: File

DATE: January 3, 1989

RE: Legal Considerations of Late Changes to a Comprehensive Plan

FROM: Lisa N. Mulhall

I. Summary of Argument

Florida Statute §163.3181(1) sets forth the requirement of effective public participation in the contents of a comprehensive plan. All proposals for the content of the plan and all alternatives thereto must be submitted to the public for comment in a manner sufficient to meet the requirements of the statute. Public comment is to be considered and responded to by the local government. A change in the contents of the comprehensive plan at a point in the proceedings that fails to provide for adequate comment may result in the invalidation of the Ordinance.

II. Facts

For the past several months the City of Naples has been in the process of adopting a new Comprehensive Plan as required by 1985 Florida Local Government Comprehensive Planning and Land Development Regulation Act. In furtherance of its efforts, the Naples City Council established the Planning Advisory Board (hereinafter "PAB") as the local planning agency for the City of Naples. Pursuant to Florida Statute §163.3174, the PAB held hearings after due public notice and prepared the Comprehensive

Plan. A draft of the proposed Comprehensive Plan was made available to the public for review and comment.

Section "G" of the Future Land Use Element of the Comprehensive Plan, as drafted by the PAB, identified areas of public concern with the City of Naples. As defined in the plan, these areas were found to pose "unique land use problems or conflicts". One such area discussed in the plan is Key Island and the shore station on the south end of Gordon Drive. By its inclusion in this section, the PAB intended for this area of the City to receive close attention during potential development. Limited development was recognized in the plan to be feasible if well planned and coordinated with necessary services.

Section G provided in part as follows:

A shore station for the Keewaydin Island Club is located at the east end of Bay Road at the south end of Gordon Drive. This area is designated as "Limited Commercial" on the Future Land Use Map to accommodate the existing uses as permitted uses (See Figure FL 2). In order to recognize existing commercial uses of this property, the Limited Commercial area should be rezoned to "PD", Planned Development, to allow the uses as of July 20, 1988 to continue as permitted uses. These current uses are limited to the area measured 100 feet by 210 feet and include automobile parking for the Keewaydin Club at the northern tip of Key Island, fueling facilities open to the public and servicing the Keewaydin Club, launch docking for the Keewaydin Club ferry, and one caretaker's unit. No expansion of current uses to support further development on Key Island are permitted. The rezone to "PD" shall include a site plan showing the existing uses with a narrative description, if appropriate. The property south of the "PD"/Limited Commercial shall be zoned "PD"/R1-15 for residential uses compatible with the surrounding R1-15 zone. Major issues that must be addressed regarding further development of Key Island include accessibility, sensitive

mangrove areas, and the absence of adequate utility, water, sewer, and solid waste disposal systems, storm impact susceptibility, high erosion rates, and the consideration to coordinate with the adjacent Rookery Bay Aquatic Preserve. Other issues include the difficulty of providing adequate emergency service, such as police and fire protection or disaster evacuation. Despite these limitations, a limited amount of well planned residential, recreation oriented development, with adequate public services, may be acceptable as designated by the permitted uses within the marginal lands section of the Conservation and Coastal Management Element.

In order to ensure that any development which may take place on Key Island is well-planned and coordinated, the plan provides for the following:

Change the current zoning designation on the island to a "Planned Development" (PD) zoning designation in conjunction with a specific development proposal. Density for any development within the Conservation Limited Development Area shall not exceed the density provisions of the Marginal/Conservation (MC) zoning district.

Require, prior to development, the submittal and approval of a Development and Site Plan, and a Development of Significant Environmental Impact assessment that adequately address:

- (a) Police and fire protection;
- (b) Water, sewer, and solid waste disposal;
- (c) Methods of access to the island with the necessary mainland based boat and vehicular storage and circulation areas;
- (d) The capacity of existing utilities and services in the surrounding areas to ensure that there is adequate reserve to handle the increased loads expected as a result of a specific development proposal;
- (e) Surface water management;
- (f) Emergency evacuation;

(g) Preservation of environmental features, surface water flow patterns, natural areas and amenities, coastal construction setbacks, dune and beach preservation; and

(h) Public access to beach areas.

Any proposed development of that portion of the island which is in the City shall be coordinated with plans for the development of the adjacent unincorporated areas of the island to the south.

Any proposed development shall be consistent with the provisions of the Conservation and Coastal Management Element of this plan.

On Wednesday, December 7, 1988 the City Council held a public workshop to review the PAB recommended draft of the Comprehensive Plan. On Wednesday, December 14, 1988, the City Council had the first reading of the Ordinance to adopt the Comprehensive Plan for the City of Naples. As a result of City Council action, a slight change was made in the section referring to Key Island; however, no major revisions to the Critical Areas section were discussed.

III. Legal Argument

Public participation in the planning process is a fundamental provision of the Local Government Comprehensive Planning and Land Development Regulation Act. Pursuant to Florida Statute §163.3181(1), both the City Council and the Planning Advisory Board of Naples are required to develop procedures to provide effective public participation in the contents of the plan. Florida Statute §163.3181 clearly states that during consideration of all proposals for the content of the Comprehensive Plan and all alternatives thereto, the local governing body shall provide opportunity for written comment,

public hearings, open discussions, communications programs, information services and consideration of and response to public comments.

The Naples' Planning Advisory Board and City Council did establish means for encouraging public participation in the process of drafting and adopting the Comprehensive Plan. The procedures, whether or not sufficient on their face to satisfy the statutory requirements, would clearly be thwarted by any last minute substantial change in the language and content of the future land use plan. The public must have opportunity to supply written comment, to attend a public hearing, to receive information concerning the change or to have the Council consider and respond to any such comments. The failure to provide any one of these opportunities is a violation of Florida Statute §163.3181.

In E.C. Williams v. City of North Miami, 213 So.2d 5 (Fla 1968), neighboring landowners filed a complaint seeking to have a Miami Ordinance declared invalid for failure to give notice of proposed zoning changes. Plaintiffs alleged that they received notification of proposed changes but that the City Commission then passed an Ordinance establishing zoning different than as proposed in the notice. A similar situation may occur here should the City of Naples having noticed its intention to vote on the draft recommended by the PAB and reviewed at City Council hearings enact an Ordinance adopting a different version of the Comprehensive Plan at the last hour.

The Court in E.C. Williams found for the Plaintiff and held that "notice must adequately inform as to what changes are proposed, and the actual change must conform substantially to the proposed changes in the notice." Id. at p.7, citing McGee v. City of Cocoa, 168 So.2d 766 (Fla App. 1964). It was further held that:

Some deviation, however, may be immaterial where the variance is a liberalization of the proposed amendment rather than an enlarged restraint on the property involved. A change may, of course, be 'substantial' where an amendment makes a greater or more significant change than that requested. Williams, 213 So.2d at p. 8.

Due process of law requires that the opportunity to be heard be full and fair. Hart v. Hart, 458 So.2d 815 (Fla. App. 4th DCA 1984). The notice required for any proceeding which may produce a final result is "notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 70 S.Ct. 652, 94 L. Ed 865 (1950), as cited in Hart, 458 So.2d at 816. Notice must be given by the City Council for any substantial change to the Comprehensive Plan. To this date, interested parties have only been notified of the pending vote on the language of the Comprehensive Plan as it stood during the first reading.

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Jodie O'Drusalle