

City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

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**City Council Special Meeting – Wednesday, May 31, 2000 – 5:15 p.m.**

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Mayor MacKenzie called the meeting to order and presided.

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**ROLL CALL .....ITEM 1**

**Present:** Bonnie R. MacKenzie, Mayor  
Joseph Herms, Vice Mayor  
Council Members:  
Gary Galleberg  
William MacIlvaine  
Fred Tarrant  
Penny Taylor  
Tamela Wiseman

**Also Present:**

Kevin Rambosk, City Manager  
Beverly Grady, City Attorney  
Tara Norman, City Clerk  
Ron Lee, Planning Director  
Laura Spurgeon, Planner

**Media:**

AnneElena Foster, Naples Daily News

See also (Attachment 1)

Council Member MacIlvaine summarized his memorandum to City Council of May 26 (Attachment 2) suggesting that the conservation amendment (Item 2-b) be placed on the November ballot and the green space and parking garage amendments (Items 2-a and 2-c) be instead scheduled for the February 2002 City general election. City Attorney Grady clarified that all three ordinances could be read and public comment taken; however, she recommended that whatever ordinances are not placed on the ballot for November not be enacted until an election is designated for presentation to the voters.

**MOTION by Wiseman to PROCEED WITH READING OF ORDINANCES, STAFF PRESENTATION AND PUBLIC COMMENT at that time; seconded by Galleberg and unanimously carried, all present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

It is noted for the record that City Manager Kevin Rambosk read the titles to all ordinances listed under Agenda Item 2 (5:23 p.m.) and that all were deliberated simultaneously by City Council.

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**ORDINANCE (Continued) .....ITEM 2-a**  
**AN ORDINANCE PROPOSING TO THE ELECTORS OF THE CITY OF NAPLES, FLORIDA, AN AMENDMENT TO THE CHARTER OF THE CITY OF NAPLES BY ADDING SECTION 14.2, ARTICLE 14, PLANNING AND ZONING, ESTABLISHING GREEN SPACE, LOT COVERAGE, DENSITY AND PARKING REQUIREMENTS FOR COMMERCIAL AND MIXED-USE PROPERTIES; PROHIBITING CITY COUNCIL FROM AUTHORIZING A RELAXATION OF THESE REQUIREMENTS; SETTING A DATE FOR THE ELECTION; PROVIDING BALLOT LANGUAGE; PROVIDING FOR CONDUCT OF THE ELECTION AND REIMBURSEMENT; PROVIDING FOR CONFLICT, REPEALER AND SEVERANCE; PROVIDING FOR ELECTION AND EFFECTIVE DATE.**

**ORDINANCE 00-8846..... ITEM 2-b**  
**AN ORDINANCE PROPOSING TO THE ELECTORS OF THE CITY OF NAPLES, FLORIDA, AN AMENDMENT TO THE CHARTER OF THE CITY OF NAPLES BY ADDING SECTION 14.3, ARTICLE 14, PLANNING AND ZONING, ESTABLISHING PERMITTED AND CONDITIONAL USES IN CONSERVATION ZONED LANDS INCLUDING MARINE GRASS BEDS, TIDAL SWAMPS/MARSH AREAS, FRESH WATER SWAMPS/MARSH AREAS, CLASS II WATERS AND GULF BEACHES/LANDS; ESTABLISHING DENSITY STANDARDS FOR RESIDENTIAL USES IN CONSERVATION TRANSITIONAL ZONING DISTRICTS; PROHIBITING THE REZONING OF CONSERVATION VITAL LANDS AND PROHIBITING THE USE OF MITIGATION; SETTING A DATE FOR THE ELECTION; PROVIDING BALLOT LANGUAGE; PROVIDING FOR CONDUCT OF THE ELECTION AND REIMBURSEMENT; PROVIDING FOR CONFLICT, REPEALER AND SEVERANCE; PROVIDING FOR ELECTION AND EFFECTIVE DATE.**

**ORDINANCE (Continued) .....ITEM 2-c**  
**AN ORDINANCE PROPOSING TO THE ELECTORS OF THE CITY OF NAPLES, FLORIDA, AN AMENDMENT TO THE CHARTER OF THE CITY OF NAPLES BY ADDING SECTION 14.4, ARTICLE 14, PLANNING AND ZONING, PROHIBITING MULTI-LEVEL PARKING STRUCTURES INCLUDING GARAGES AND DECKS IN COMMERCIAL ZONING DISTRICTS AND CERTAIN PLANNED DEVELOPMENT DISTRICTS; SETTING A DATE FOR THE ELECTION; PROVIDING BALLOT LANGUAGE; PROVIDING FOR CONDUCT OF THE ELECTION AND REIMBURSEMENT; PROVIDING FOR CONFLICT, REPEALER AND SEVERANCE; AND PROVIDING FOR ELECTION AND EFFECTIVE DATE.**

Planning Director Ron Lee introduced Planner Laura Spurgeon who made a presentation, previously requested by the Council, to illustrate how the charter amendments would impact the design of such projects as Bayfront Marketplace and Grand Central Station. (Information presented by Ms. Spurgeon are included as Attachment 3; photographs of additional diagrams are contained in the file for this meeting in the City Clerk's Office.)

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**Public Input: (5:45 p.m. to 7:24 p.m.) It is noted for the record that due to the amount of public input, registered speakers are listed as either opposing or supporting the individual amendments or all amendments.**

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**Susan Grove, 626 Third Street North (Collier County Audubon Society) – Supported conservation amendment. Brad Cornell, 556 109<sup>th</sup> Avenue North (Collier County Audubon Society) – Supported conservation amendment. Eileen Arsenault, 1188 Gordon Drive –**

Supported conservation amendment. **Gil Kovacks, 677 Banyan Blvd.** – Opposed to charter amendments. **Alfred French, 649 Fifth Avenue South** – Opposed to charter amendments and presented a petition signed by local architects (Attachment 4). **George Williams, 1325 Seventh Street South** – Supported charter amendments. **Joan Paley, 3131 Gin Lane** – Supported conservation amendment. **Mike DelDuca, 2101 Tarpon Road** – Opposed charter amendments. **Dodie Briskey, 4236 Crayton Road** – Opposed charter amendments. **Jane Earle, 4951 Gulf Shore Blvd.** – Opposed charter amendments. **Kim Kushman, 3612 Belair Lane** – Opposed charter amendments. **Jim Rideoutte, 1125 Wildwood Lane** – Opposed charter amendments. **Jack Conroy, 656 15<sup>th</sup> Avenue South** – Opposed charter amendments. **Dawn Jantsck, 3620 North Tamiami Trail (Naples Area Chamber of Commerce)** - Opposed charter amendments. **Muffy Clark Gill, 2725 12<sup>th</sup> Street North** - Opposed charter amendments. **Harry Timmins, 555 Kingstown Drive** – Supported conservation amendment and MacIlvaine proposal to continue green space and parking garage amendments. **Kim Anderson, 525 Yucca Road** - Opposed charter amendments. **Joan Dunkle, 2170 Gulf Shore Blvd.** – Declined to speak when called. **Moe Kent, 4160 Cutlass Lane** - Opposed charter amendments. **Susan Mauntel, 718 Eighth Avenue South** - Opposed charter amendments. **James Dean, 1320 28<sup>th</sup> Avenue North** - Opposed charter amendments. **Falconer Jones III, 1379 Royal Palm Drive** - Opposed charter amendments. **Bill Hyland, 750 Admiralty Parade** – Supported conservation amendment. **Michael Simonik, The Conservancy** – Supported conservation amendment. **Wheeler Conkling, 652 Bridgeway Lane** – Supported charter amendments. **Colleen Kvetko, 6623 Glen Harbor Way** - Opposed charter amendments. **Ned Putzell, 1285 Gulf Shore Blvd., North** - Opposed charter amendments. **Betty Pennington, 3430 Gulf Shore Blvd., North** - Opposed charter amendments. **Philip McCabe, 699 Fifth Avenue South** - Opposed charter amendments. **Tom Reed, 745 Willowhead Drive** - Opposed charter amendments. **Ron Pennington, 3430 Gulf Shore Blvd, North** - Opposed charter amendments. **Clark Russell, 3005 Fort Charles Drive** - Opposed charter amendments. **Bill Barnett, 2750 Treasure Lane** - Opposed charter amendments. **Jeff Fridkin, 5057 Seashell Avenue** - Opposed charter amendments.

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**Recess: 7:24 p.m. to 7:42 p.m. It is noted for the record that the same City Council Members were present when the meeting reconvened.**

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Vice Mayor Herms observed that the ability to vote is one of the most important rights afforded American citizens and that state law allows communities to establish and amend charters which authority does not preclude including zoning laws in those charters. If zoning in charters is considered bad government, he said, then those who hold this belief should petition the legislature to amend the state law. The real issue of community zoning, Mr. Herms pointed out, is density, which was established in Naples in the 1950's and remained largely unchanged until the 1990's when lot coverage, parking and density standards began to change. Citizens have the right, he said, to vote to determine whether they favor the strict zoning which created the community and then to have the ability to change that zoning if voters see fit. Despite passage of the 42 foot height amendment in February, a parcel in some areas can still be developed to 90% lot coverage with three stories if parking can be provided. Mr. Herms predicted that Council Member MacIlvaine's proposal to defer two of the charter amendments will provide the community with the opportunity to see what type of development will occur without these amendments; nevertheless, he urged going forward with all three.

Council Member Galleberg observed, however, that the proposed charter amendments would in fact change the community which proponents wish to protect since what had been built would not have been allowed thereunder. However, if the proposed charter amendments were enacted, he said, the 2002 general election would be too soon for an ample opportunity to determine what would be built. Mr. Galleberg nevertheless predicted that the charter amendments would result in

stagnation. Council Member Taylor, while concurring with Vice Mayor Herms' premise, said she supported Council Member MacIlvaine's proposal to continue the parking garage and lot coverage amendments so that fears of unintended consequences could be allayed. She said that one of the costs for the success of Fifth Avenue was increased traffic, keeping some local residents away from that area; making all commercial areas pedestrian friendly, she noted, is not necessarily good planning. Council Member Wiseman commended Mr. MacIlvaine for his proposal, but noted that going through the Planning Advisory Board process with the parking garage and green space amendments in the summer months would still preclude much public participation. She took the position that the amendments were flawed and their impact would be known only after a property-by-property survey. Mrs. Wiseman also expressed the view that Council was not considering the interests of commercial property owners, many of whom are not City voters. Council Member Tarrant, however, stressed the importance of allowing the City's taxpaying citizens the right to decide on these issues, theorizing that many Collier County voters would have appreciated an opportunity to regress 10 to 12 years in order to vote on matters of growth. He said that the goal of the charter amendments was not to stifle or damage but to retain the low density which has been the feature attracting people to the community. Nevertheless, Council Member Tarrant said he supported allowing the parking garage and lot coverage amendments to undergo a more thorough review process; the conservation amendment, he predicted, would however be readily approved.

Mayor MacKenzie echoed Vice Mayor Herms' points regarding the importance of citizens having the right to vote on important issues but also noted the importance of taking actions affecting peoples' rights only after thorough and careful consideration, something which she said she felt had been missing from the current process. Hearing the thoughts of affected property owners should be much more extensive than merely receiving public comment which is limited to five minutes per speaker in a typical meeting setting. Mayor MacKenzie also noted that the City Attorney and Planning Director had not had an opportunity to consider the possible impacts of the proposed conservation amendment and whether the City would incur any legal exposure if enacted. She also expressed the opinion that avoiding consultation with professionals because they may be motivated by self-interest is just as disingenuous as suggesting that non-professionals are not motivated by self-interest.

Council Member Galleberg then made a motion to deny Items 2-a and 2-c, seconded by Council Member Wiseman. However, further discussion ensued. During this dialog, Council received clarification from City Attorney Grady that the motion to deny would require that the entire process of adoption begin anew; however, a motion to table would allow the ordinances to be brought back for further consideration. Regardless, Mrs. Grady pointed out, time constraints would prevent any ordinance not approved at that meeting from being placed on the November general election ballot. Therefore, Council Member Tarrant made a motion to table which superseded a motion to deny. (See Page 5)

Planning Director Ron Lee recommended that the land development code be altered through the text amendment process in order to comport with the charter amendments and avoid confusion among the public. City Attorney Grady explained that these amendments would be handled in ordinances separate from the charter amendments. Mayor MacKenzie asked whether building permits would be granted under the old regulations while the City was amid the amendment process. While stressing that she was not prepared to comment on the potential affect upon individual properties, Mrs. Grady indicated that the City should publish a notice of pending zoning change to so advise the public. Mrs. Grady also clarified that because these ordinances



would then require a change, not in substance, but in the referendum date or type of election, another second reading would be required; she also reserved the ability to undertake additional research to assure that all attendant public hearing and advertising requirements for a land use change (Chapter 166, F.S.) were met.

***MOTION by Tarrant to TABLE Items 2-a and 2-c (adding Sections 14.2 and 14.4, respectively to the Charter) until late October; seconded by Herms and carried 6-1, all members present and voting (Wiseman-yes, MacIlvaine-yes, Tarrant-yes, Galleberg-yes, Herms-yes, Taylor-yes, MacKenzie-no).***

During the vote Council Member Wiseman expressed her appreciation to Council Member Tarrant for departing from the majority position but maintained her concurrence with Council Member Galleberg's position that continuance was the incorrect way to proceed. Mayor MacKenzie said that she felt this to be an example of good intentions not achieving good results because no town hall type meeting had been scheduled for public participation.

***MOTION by Herms to ADOPT Ordinance 00-8846 (proposing addition of Section 14.3 to the Carter) AS AMENDED to include on Page 5, Section 5 that the sentence read "In conservation transitional designated lands, residential density shall be limited to one dwelling unit per five net acres." The motion was seconded by Tarrant and carried 4-3, following further discussion which appears below, all members present and voting (Tarrant-yes, Galleberg-no, Herms-yes, Wiseman-no, Taylor-yes, MacIlvaine-yes, MacKenzie-no).***

Council Member Wiseman said that while this may be the most readily understood of the three proposed amendments, it may illicit an emotional rather than a reasoned reaction from voters. She also expressed concern that it would make the City vulnerable to property rights claims and therefore should be accompanied by a similar assessment of cost as had been done before acquisition of the Fleischmann property. Council Member Galleberg asked the City Attorney to comment on a memorandum which had been received earlier by the Council from Attorney Richard Yovanovich. This memo concerned ramifications of the conservation amendment and noted that the Council had not yet requested a legal analysis from its own attorney. Mrs. Grady indicated that the memorandum dealt more with the substance of the action and not the manner.

***MOTION by Herms to INSTRUCT THE STAFF to draft text amendments to the Code of Ordinances to reflect the substance of the ordinances under Items 2-a and 2-c, submitting them to the Planning Advisory Board for review in October and to the City Council for action in November. This motion was seconded by Council Member Tarrant and carried 5-2, all members present and voting (Taylor-yes, Wiseman-yes, Galleberg-no, Herms-yes, MacIlvaine-yes, Tarrant-yes, MacKenzie-no).***

During the vote, Council Member Wiseman encouraged the architects who had offered their service in analysis (see Attachment 4) to work with the City over the summer months. Mayor MacKenzie said that without public input and comments from affected property owners she saw no benefit in the delay.

**OPEN PUBLIC INPUT.....**

**Peter Van Arsdale, 3333 Rum Row**, noted his service on the City Council from 1992 to 2000. He observed that there could have been no means by which the four Council Members voting the majority could have had the same idea at the same time, or could have had the same idea which was presented by Council Member MacIlvaine. Mr. Van Arsdale described this as a considerable shift from prior positions. He said that often Council debate is merely to justify a predetermined conclusion and called it horrendous government. Mr. Van Arsdale said that nothing said during the meeting could have changed the minds of the majority since their minds had already been made up and that there was no debate. He called it repugnant and an

embarrassment to the City. **Kim Anderson, 525 Yucca Road**, noted that her family had been in Naples since 1956 and indicated her representation of the Concerned Citizens For Responsible Government. She said this organization sought to have the public process seen through to an equitable, open and ethical standard. She proposed that due to the four-to-three split among Council Members on the issues under consideration, a individual representing each point of view be chosen to engage in public debate during town hall meetings. This, she said, would provide an accurate assessment of how the community feels. Ms. Anderson also suggested seeking input from professionals, developers and land owners. Council Member Tarrant asked Ms. Anderson if she had an objection to allowing Naples voters to express their views on the subject of the proposed charter amendments. She responded that charter amendments initiated by the Council are the wrong way to proceed as opposed to initiatives which are generated by the petition process. **Falconer Jones III, 1379 Royal Palm Drive**, said he wished to rebut various Council statements including the premise that something as complex and conclusive as zoning should be included in the charter. Charters, he said, should involve other issues such as beach access or rights to fresh water relative to growth in the County. He said that one of the failures of modern architecture was to install buildings over parking which, he said, gave the land over to the automobile. If density is the issue, he said, there should be an initiative process on density instead of using parking as what he described as political manipulation. He praised Fifth Avenue South redevelopment and said that traffic had not prevented him from reaching his destination in a timely manner. **Charles Kessler, 525 Anchor Rode Drive**, responded to Peter Van Arsdale who he accused of consistently voting with the majority during his tenure on City Council. He said that Mr. Van Arsdale is angry because those holding his point of view are in the minority. He urged that opposing views be respected and not demonized.

**CORRESPONDENCE and COMMUNICATIONS.....**

Council Member Tarrant asked for support to move forward to file litigation regarding the shut-down of City of Naples wells adjacent to the Calusa Bay development. This matter was deferred until a copy of a response by Chip Merriam of the Southwest Florida Water Management District to a recent memorandum from Council Member Tarrant could be located and read into the record.

With reference to the hiring of a law firm relative to Hamilton Harbor litigation Vice Mayor Herms asked whether there were four Council Members who would favor changing the date for the decision from Wednesday, June 7, to Friday, June 2. Council Member Galleberg questioned this, noting that Mr. Herms had made the motion at a special meeting earlier in the day (following interview of the law firms) to set the date of June 7. It was noted by City Attorney Grady that since the purpose of this particular meeting was to review charter amendments, a special meeting should be called no earlier than Monday, June 5, in order to allow for adequate public notice. Council Members Tarrant and MacIlvaine indicated their desire for a sufficient period of time to review the information received from the law firms interviewed; Mr. MacIlvaine concurred with Monday, June 5. Council Member Taylor stated that she would be out of town on business that week and would not be able to attend the scheduled meeting to vote on the attorney hiring. Mayor MacKenzie said that Mr. Herms' suggestion of an earlier meeting was uncalled for and that Council should be afforded sufficient time to thoughtfully evaluate the firms and to check references. City Attorney Grady said that Miss Taylor would be able to state her preference in a memo to the Council which would be part of the public record, although it would not constitute a vote. Allowing Miss Taylor to vote via speaker phone was then discussed; however, City Attorney Grady recommended further research on the legal issues involved. Vice Mayor Herms then suggested holding a special meeting on Monday, June 12, confirming that Council Member Taylor would then be available.

**MOTION by Herms to HOLD A SPECIAL MEETING ON MONDAY, JUNE 12, AT 9:00 A.M. on the hiring of a law firm in the Hamilton Harbor litigation. This motion was seconded by Council Member Taylor and approved 4-3, all members present and voting, following the discussion that appears below (Herms-yes, Galleberg-no, Tarrant-yes, Wiseman-no, Taylor-yes, MacIlvaine-yes, Mayor MacKenzie-no).**

Mayor MacKenzie expressed concern that the Council was considering an issue on which a vote had been taken at a previously adjourned meeting. City Attorney Grady indicated that the Council could take action only to set a future meeting, when the public could be present, to be held at a later time than previously scheduled. She however advised against taking action on the issue itself at the meeting then in session. Council Member Galleberg disputed changing the date; he said he would not be available on June 12. In response to Mayor MacKenzie, Miss Taylor confirmed that she had been aware of her travel plans when she had voted to act on hiring a law firm at the June 7 meeting. Mayor MacKenzie then suggested that the decision be deferred to the regular meeting of June 21; however, it was learned that Vice Mayor Herms would be out of town for that meeting. Council Member Wiseman requested that the City Attorney reconsider her position that the meeting date could be changed in the current forum, observing that the June 7 date had been set unanimously. Council Member Tarrant said he found it unfair and a lack of courtesy that the Council was unwilling to change the date to allow Miss Taylor to participate; he said he would take the same position, regardless of the Council Member making such a request. Mayor MacKenzie, however, said that it had been a past practice for Council Members to advise the Mayor by memo when they were to be away, that being the first time she had heard of either Miss Taylor's or Mr. Herms' planned absences. Miss Taylor reported that Mr. Herms had announced his absence at a Beach Renourishment/Maintenance Committee meeting. Mayor MacKenzie said she would in fact support the motion for the June 12 meeting if Vice Mayor Herms, the motion maker, would agree not to call any further special meetings until the end of September. Council Member Galleberg called for a written legal opinion on the propriety of changing the meeting date in this manner; however, Vice Mayor Herms pointed out that in order to receive a written legal opinion, an affirmative vote of four members of Council was needed. Mayor MacKenzie, however, disputed this.

During the roll call Council Member Wiseman said that the action underway exemplified what she called the tyranny of the majority. She said she found it strange that there had earlier in the day been a unanimous vote to set the date for the decision on the law firm but that Vice Mayor Herms had requested a change only at the close of the second special meeting of the day, which had been followed by Council learning of Miss Taylor's absence on June 7. She reasoned that Mr. Herms and Miss Taylor had known that the other would be out of town, although she said she believed it had not been known by the remainder of Council. During the vote on the above motion, Miss Taylor expressed her thanks to Council Member Tarrant.

City Clerk Tara Norman then read into the record the following letter to Mayor MacKenzie dated May 30, 2000, from Chip Merriam of the South Florida Water Management District: "I recently received a copy of a memorandum from Council Member Tarrant regarding the South Florida Water Management District enforcement action against Calusa Bay. Councilman Tarrant is correct in his assessment of the City Manager Kevin Rambosk and Kevin's effort toward an effective resolution. In fact, attached is a copy of the letter from Mr. Rambosk, dated May 12, 2000, requesting additional time to complete the development of recommendations. There are several parties, inclusive of the City of Naples, that will be impacted by the final settlement agreement. It has been our goal to complete the decision process, taking into account the issues

associated with the City of Naples coastal wellfield, the requirement to meet the State of Florida water quality requirements and issues associated with Collier County and the proposed improvements of Goodlette-Frank Road, to mention a few. Upon execution of the settlement agreement, it is my commitment to present the agreement to the South Florida Water Management District governing board at the earliest possible meeting. Additionally, I, along with Clarence Tears, would look forward to a workshop meeting to discuss water related issues with the City of Naples in August of this year. Sincerely, Chip Merriam.”

Council Member Tarrant then said that he felt it important to for the time being leave this matter in the hands of the City Manager who, he said, had made tremendous efforts to reach a resolution.

Council Member Wiseman said that she had been encouraged by Council Members Tarrant and MacIlvaine’s position on the charter amendments and commended those who had taken the time to educate themselves and come forward with their comments. She encouraged wise use of the intervening summer months to hold town hall meetings to further educate the public.

Council Member Taylor requested that Naples High School students be heard regarding the video taping program. She also asked that Council review a sample video tape and requested that the Council authorize a full video production on the Fleischmann Property. (A copy of the sample video viewed by the Council is contained in the file for this meeting in the City Clerk’s Office.) **Michael Basham and Nicholas von Litolff, Naples High School students**, expressed appreciation for the program including the opportunity to familiarize themselves with new technology and the learning experience achieved through documentary film production. Mayor MacKenzie conveyed Council’s support for the program but noted that the question earlier in the day regarding discussion of this program had centered on this being a special called meeting for another purpose.

Council Member Taylor sought Council approval to add to the video of the Fleischmann property interviews with the Natural Resources Manager, Mayor, and City Manager for play on Channel 54. Mayor MacKenzie called on City Attorney Grady to clarify whether such an issue could be considered at that meeting. Mrs. Grady said that the Council could at that meeting merely set a time in the future for an issue to be considered but that action should not be taken. Because Miss Taylor had indicated that she would be absent for the June 7 City Council meeting, Mayor MacKenzie asked whether Miss Taylor’s comments could be contained in memo form so that action could still be at that time; Mrs. Grady responded in the affirmative, but cautioned that no action be taken at a workshop.

**MOTION by Herms to PLACE ACTION RELATIVE TO THE FLEISCHMANN PROPERTY VIDEO ON THE JUNE 7 REGULAR MEETING AGENDA; seconded by Tarrant and unanimously carried, all members present and voting (Wiseman-yes, MacIlvaine-yes, Tarrant-yes, Galleberg-yes, Herms-yes, Taylor-yes, MacKenzie-yes).**

Miss Taylor then raised the issue of the need for portable camera equipment for the Fleischmann project and sought to verify Council’s prior authorization to purchase; Mayor MacKenzie clarified that the Council had authorized City Manager Kevin Rambosk to return to Council with a plan but in the interim to purchase equipment only to take advantage of significant cost savings. City Manager Rambosk said that he understood that the camera equipment to be acquired under state contract can be used for either stationary or portable operations. Council Member Taylor requested that, in light of her absence on June 7, the charter amendment decision

be tabled until June 21; it was noted that Vice Mayor Herms would however not be present on the 21st. City Attorney Grady said that this change in meetings could not be done because of legal advertising for those hearings on June 7; however, she indicated that Miss Taylor could convey her input via memorandum which the Council would then be able to hear at its discretion.

**ADJOURN** .....  
9:55 p.m.

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Bonnie R. MacKenzie, Mayor

Minutes prepared by:

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Tara A. Norman, City Clerk

Minutes approved: August 2, 2000

Supplemental Attendance List

**Nicholas von Litolff**  
**Carol Mitchell**  
**Susan Grove**  
**Brad Cornell**  
**Ronnie Poplock**  
**Eileen Arsenault**  
**Gil Kovacs**  
**Alfred French**  
**George Williams**  
**June Paley**  
**Mike DelDuca**  
**Dodie Briskey**  
**Jane Earle**  
**Kim Kushman**  
**Jim Rideoutte**  
**Jack Conroy**  
**Dawn Jantsch**  
**Muffy Clark Gill**  
**Harry Timmins**  
**Kim Anderson**  
**Joan Dunkle**  
**Moe Kent**  
**Susan Mauntel**  
**J. T. Dean**  
**Falconer Jones III**  
**Bill Hyland**  
**Michael Simonik**  
**Wheeler Conkling**  
**Colleen Kvetko**  
**Ned Putzell**  
**Betty Pennington**  
**Philip McCabe**  
**Tom Reed**  
**Ron Pennington**  
**Clark Russell**  
**Bill Barnett**  
**Jeff Fridkin**  
**Peter Van Arsdale**  
**Charles Kessler**  
**Michael Basham**



# Memo

City of Naples, Florida

**TO:** HONORABLE MAYOR AND CITY COUNCIL MEMBERS  
**FROM:** COUNCIL MEMBER BILL MACILVAINE  
**DATE:** MAY 26, 2000  
**SUBJECT:** CHARTER AMENDMENTS

**RECEIVED**  
MAY 24 2000  
OFFICE OF THE MAYOR

It is evident, or should be, that I have a passion for advancing a city government which will benefit and be in the best interests of the majority of the people of the City of Naples. Because I believe that the entire Council has a similar, if differently implemented concern, I now ask the Council to hear and consider the following conclusions.

The three charter amendments, which are called DENSITY, GARAGE and CONSERVATION will produce the desired goals for which they are intended. The language is effective and concise. The goals are so essential to the future of our city that these initiatives should be placed in the City Charter. This will ensure that future special interests cannot overturn them unless a majority of the voters agree it is beneficial for the city.

During recent weeks, opposition has been voiced to our deliberate and continued progress in the development of the charter amendment language. Theories have been expressed that unforeseen and unanticipated complications might result from what at present appears to be direct and straightforward wording. The opposition believes that more time for consideration and evaluation of the amendments would aid in a general understanding of their merits. I do not agree, since I believe it is the concept, not the time factor, which is at the heart of the opposition.

However, it may be possible to develop a direction that could relieve those who are genuinely uneasy about the question of timing and who desire to test the amendments for possible unexpected results.

I propose for the consideration of this Council that we proceed on schedule, as planned, to place the CONSERVATION amendment on the ballot in November, 2000.

Further, I propose placing the DENSITY and GARAGE amendments on the ballot in the February, 2002 election.

Additionally, I propose that we immediately enact these latter two amendments into the city code as ordinances and so allow the people of Naples, as well as the City Council, an opportunity to observe and monitor their effectiveness over time.

*Bill*

Conversion of the parking garages into surface parking, and maintenance of this buildable footprint (28% of lot), constrained commercial development of the parcel:

<u>Gr. Central Submitted</u>	<u>Gr. Central Modified</u>	<u>Difference (Change)</u>
390,000 s.f. commercial	215,914 s.f. commercial	-174,086 s.f. (-45%)
206,000 s.f. residential	206,000 s.f. residential	same
346,971 s.f. covered parking	25,461 s.f. covered parking	-321,510 s.f. (-93%)
942,971 s.f. TOTAL floor area	447,375 s.f. TOTAL floor	-495,596 s.f. (-53%)
141 units	141 units	same

The elimination of parking above grade resulted in an increase of exposed paved surface on site:

<u>Gr. Central Submitted</u>	<u>Gr. Central Modified</u>	<u>Difference (Change)</u>
1,317 parking spaces	788 parking spaces	-529 spaces (-40%)
223,440 s.f. exposed paved area	405,053 s.f. exposed paved	+181,613 s.f. (+81%)
29% of site	53% of site	+24% (+83%)
147,233 s.f. landscaping	148,302 s.f. landscaping	+1,069 s.f. (+1%)
19% of site	19% of site	same



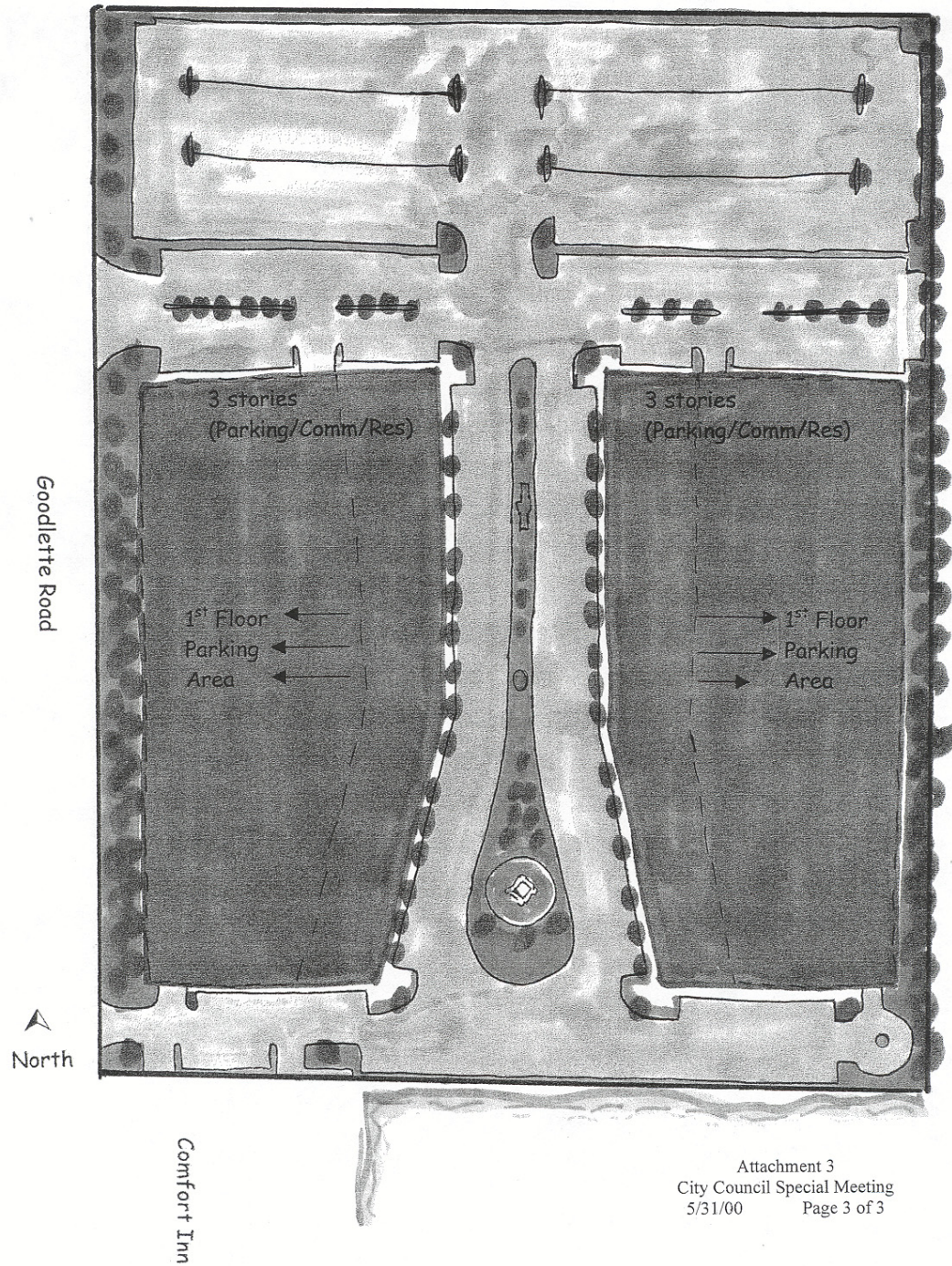
3 stories and the residential density cap, as limited to this buildable footprint (28% of lot), constrained development of residential space and allowed an increase in commercial space:

<u>Bayfront Submitted</u>	<u>Bayfront Modified</u>	<u>Difference (Change)</u>
162,070 s.f. commercial	192,445 s.f. commercial	+30,375 s.f. (+19%)
275,000 s.f. residential	154,175 s.f. residential	-120,825 s.f. (-44%)
171,306 s.f. covered parking	44,430 s.f. covered parking	-126,876 s.f. (-74%)
608,376 s.f. TOTAL floor area	391,050 s.f. TOTAL floor	-217,326 s.f. (-36%)
161 units	92 units	-69 units (-43%)

The elimination of parking above grade resulted in an increase of exposed paved surface on site, and a slight decrease in landscaped area:

<u>Bayfront Submitted</u>	<u>Bayfront Modified</u>	<u>Difference (Change)</u>
746 parking spaces	717 parking spaces	-29 spaces (-4%)
214,232 s.f. exposed paved area	281,795 s.f. exposed paved	+67,563 s.f. (+32%)
42.8% of site	56.3% of site	+13.5% (+32%)
89,870 s.f. landscaping	78,170 s.f. landscaping	-11,700 s.f. (-13%)
18% of site	16% of site	-2% (-11%)

Bayfront with Charter Amendment Regulations  
(45% coverage, 15% open space, 8 units/acre, no parking structures)





May 31, 2000

Mayor Bonnie MacKenzie  
Members of the City Council  
City of Naples  
735 Eighth Street South  
Naples, FL 34102

Dear Mayor MacKenzie and Council Members:

We, the undersigned architects who live and work in Naples, want to record our opposition to the proposed amendments to the City Charter.

Planning is a fluid and dynamic process. The tools of planning, including the Comprehensive Plan and Zoning Ordinance, must not be static and frozen over a long period of time. Land use, zoning, environmental issues, transportation and parking must continually be deliberated and revised by the City Council according to the needs of the community and the wishes of the people. A referendum, asking voters to decide complex issues which will last indefinitely, seems to us as extremely unwise. This process takes governing out of government. Both the City Council and the public will lose all ability to adapt to change.

As practicing architects who deal frequently with zoning provisions, we have experience in dealing with these issues. Despite this expertise, in the short time available to review the documents, none of us are able to fully comprehend the implications and ramifications of the proposed charter amendments. The language in supporting documents, which define these amendments, is as important as the amendments themselves. The public will be largely unaware of these accompanying provisions or their consequences.

Over the next 90 days we will ask local architects to analyze and evaluate the amendments and their provisions on a case study basis, and will present our findings to the City Council and the public. To give the public more time to consider the proposals, we recommend the final vote on placing these amendments on the ballot be deferred until the consequences of the proposed amendments are clearly understood.

Mayor Bonnie MacKenzie  
Members of the City Council  
May 31, 2000  
Page 2

The undersigned architects of Naples encourage the City Council to embrace a more deliberate and thoughtful process toward zoning evolution and abandon the current rush to judgment. If the present City Council believes the citizens of this community want the provisions of the proposed amendments enacted, we encourage this Council to revise the Zoning Ordinance. Naples and its citizens deserve better than the proposed amendment process.

Sincerely,

Alfred W. French III, AIA  
Andrea Clark Brown, AIA  
David M. Corbin, AIA  
Bruce R. Wade, AIA  
Matthew Kragh, AIA  
Rocco Costa III, AIA  
John Dyehouse, AIA  
Frank Comeriato, AIA  
John Geshay, AIA  
Janice Ward, AIA  
Will Ward, AIA  
James Boughton, AIA  
David Humphrey, AIA  
Larry Warner, AIA  
Jon Kukuk, AIA  
Thomas Selck, AIA  
Dalas Disney, AIA

Alfred W. French III 649 5<sup>th</sup> Ave Naples  
780m 240 EIGHTH ST. SO.  
LAURENCE 837 FIFTH AVE. SO.  
VILLAS 837 FIFTH AVE. S. NAPLES  
Matthew Kragh 837 FIFTH AVE. SOUTH  
Rocco Costa III 837 FIFTH AVE. SOUTH  
John Dyehouse 999 5TH AVE PARKWAY  
Frank Comeriato 999 5TH AVE PARKWAY  
John Geshay 999 5TH AVE PARKWAY  
Janice Ward 800 5th Ave South  
Will Ward 800 5th Ave So.  
James Boughton 900 SIXTH AVE S.  
David Humphrey 761 12TH AVE S.  
Larry Warner 590 11TH ST. S.  
Jon Kukuk 590 11TH ST. S.  
Thomas Selck  
Dalas Disney

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FROM: HUMPHREY &amp; ASSOC.

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Attachment 4  
City Council Special Meeting  
5/31/00 Page 3 of 3

Mayor Bonnie MacKenzie  
Members of the City Council  
May 31, 2000  
Page 2

The undersigned architects of Naples encourage the City Council to embrace a more deliberate and thoughtful process toward zoning evolution and abandon the current rush to judgment. If the present City Council believes the citizens of this community want the provisions of the proposed amendments enacted, we encourage this Council to revise the Zoning Ordinance. Naples and its citizens deserve better than the proposed amendment process.

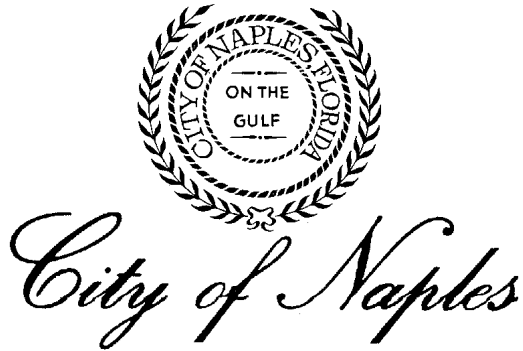
Sincerely,

Alfred W. French III, AIA  
Andrea Clark Brown, AIA  
David M. Corbin, AIA  
Bruce R. Wade, AIA  
Matthew Kragh, AIA  
Rocco Costa III, AIA  
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Will Ward, AIA  
James Boughton, AIA  
David Humphrey, AIA  
Larry Warner, AIA  
Jon Kukit, AIA  
Thomas Selck, AIA  
Dallas Disney, AIA

*Alfred W. French III, AIA* 619 5<sup>th</sup> Ave Naples  
*Andrea Clark Brown, AIA* 740 EIGHTH ST. SO.  
*David M. Corbin, AIA* 837 FIFTH AVE. SO.  
*Bruce R. Wade, AIA* 837 FIFTH AVE. S. Naples  
*Matthew Kragh, AIA* 837 FIFTH AVE. SOUTH  
*Rocco Costa III, AIA* 837 FIFTH AVE. SOUTH  
*John Dyehouse, AIA* 999 5TH AVE. PRECINCT  
*Frank Comeriato, AIA* 999 5TH AVE. PRECINCT  
*John Geshay, AIA* 999 5TH AVE. PRECINCT  
*Janice Ward, AIA* 800 4th Ave South  
*Will Ward, AIA* 800 5th Ave So.  
*James Boughton, AIA* 900 GUTHRIE S.  
*David Humphrey, AIA* 101 LARSEN AVE. N.  
*Larry Warner, AIA* 7th 10th AVE S.  
*Jon Kukit, AIA* 540 11th SE S.  
*Thomas Selck, AIA* 540 11th SE S.  
*Dallas Disney, AIA* 125 N. AIRPORT RD.

AWF:cr

C:\AWF\amend1es



City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

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**City Council Special Meeting – Wednesday, May 31, 2000 – 1:30 p.m.**

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Mayor MacKenzie called the meeting to order and presided.

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**ROLL CALL** ..... **ITEM 1**

**Present:** Bonnie R. MacKenzie, Mayor  
Joseph Herms, Vice Mayor  
Council Members:  
Gary Galleberg (arrived at 1:40 p.m.)  
William MacIlvaine  
Fred Tarrant  
Penny Taylor (arrived at 1:50 p.m.)  
Tamela Wiseman

**Also Present:**

Kevin Rambosk, City Manager  
Tara Norman, City Clerk  
William Harrison, Assistant City Manager  
Grace MacFarlane, Adm. Specialist  
James Kessler  
Bill Boggess  
David Bruner  
Fred Dudley  
Paul Regensdorf  
Michael McMahon  
Fred Hardt  
Ken Jones  
Nancy Stroud  
Edward Guedes

**Media:**

Eric Staats, Naples Daily News

Prior to commencement of Item 2, Assistant City Manager William Harrison sought definitive direction from the Council on the record regarding the source of funding for attorneys representing the City relative to the Hamilton Harbor litigation. He referred to an audit report prepared by KPMG (a copy of which is contained in the file for the June 7, 2000, City Council regular meeting) critical to the handling of the Sabal Bay litigation account. Council discussed with Mr. Harrison the possibility of reimbursing the Sabal Bay fund for other legal costs which had been charged thereto.

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**It is noted for the record that Council Member Galleberg entered the meeting at 1:44 p.m.**

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Assistant City Manager Harrison specifically requested that the Council ratify the steps taken by the City's Finance Department in paying for Naples Bay associated legal services from the Sabal Bay account and to exhaust the account with the preliminary legal charges on Hamilton Harbor. Although Vice Mayor Herms made a motion to ratify the steps taken by the Finance Department, Council Member Tarrant recommended that a decision however be deferred to the next regular meeting on June 7.

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**It is noted for the record that Council Member Taylor entered the meeting at 1:50 p.m.**

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**MOTION by Herms to ADD THIS TO THE JUNE 7, 2000, REGULAR MEETING in order to provide staff with direction relative to allocation of funds for Hamilton Harbor litigation (from the balance of \$94,453 in general fund contingency); seconded by Tarrant and unanimously carried, all members presenting and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes)**

.....ITEM 2

#### INTERVIEWS WITH LAW FIRMS REGARDING REPRESENTATION IN HAMILTON HARBOR LITIGATION

Mayor MacKenzie noted that the Council had authorized interviews with four firms but that Holland & Knight had declined due to conflict. Council Member Tarrant noted that he had asked City Manager Rambosk to fax information on Hamilton Harbor to Attorney Gary Shirk and inquired as to whether Mr. Shirk would be able to address Council. Mayor MacKenzie explained, however, that the prior motion of Council had called for interview of four named firms only.

The following firms were then interviewed: Akerman Senterfitt (Fred Dudley, Paul Regensdorf and Michael McMahon); Roetzel & Andress (Fred Hardt and Ken Jones); and Weiss Serota Helfman Pastoriza & Guedes (Nancy Stroud and Edward Guedes).

---

**Recesses were called between the first and second interviews (3:05 to 3:09 p.m.) and between the second and third interviews (4:46 p.m. to 5:07 p.m.). It is noted for the record that the same Council Members were present after each recess.**

---

**MOTION by Herms to ADD ACTION ON HIRING A FIRM to the June 7, 2000, regular meeting agenda; seconded by Galleberg and**

*unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).*

Mayor MacKenzie indicated that she believed Council did not wish to interview any further firms and that in the interim staff could accomplish the appropriate reference checks.

OPEN PUBLIC INPUT .....  
None

Council Member Taylor requested that at the 5:05 p.m. special meeting a video demonstration of footage on the Fleischmann property produced by Naples High School students be presented followed by a determination by Council on whether to proceed with a full-fledged video production. Mayor MacKenzie stated that rather than on this meeting's agenda this should be handled on the upcoming workshop or regular meeting. Vice Mayor Herms asked whether an item could be added with four affirmative votes; City Attorney Beverly Grady, however, advised against adding an item to a specially called meeting which departs from the published notice. Council Members Tarrant and Herms suggested that it be handled during open public input at the conclusion of the 5:05 p.m. meeting.

ADJOURN .....  
**5:09 p.m.**

\_\_\_\_\_  
Bonnie R. MacKenzie, Mayor

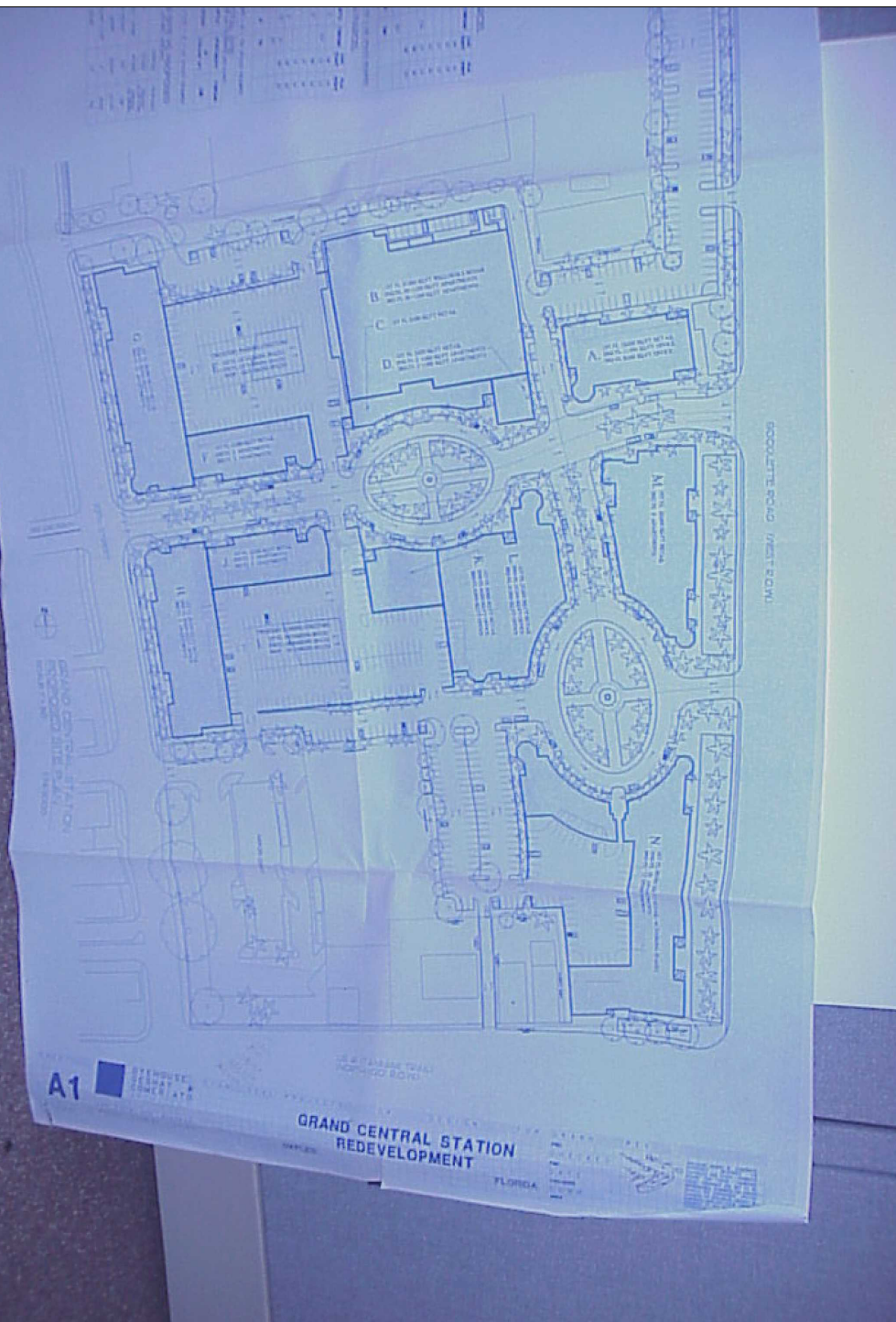
Minutes prepared by:

\_\_\_\_\_  
Tara A. Norman, City Clerk  
2000

Minutes approved: August 2,



**City Council Workshop-Meeting November 16, 1998**  
**8:30 a.m.**



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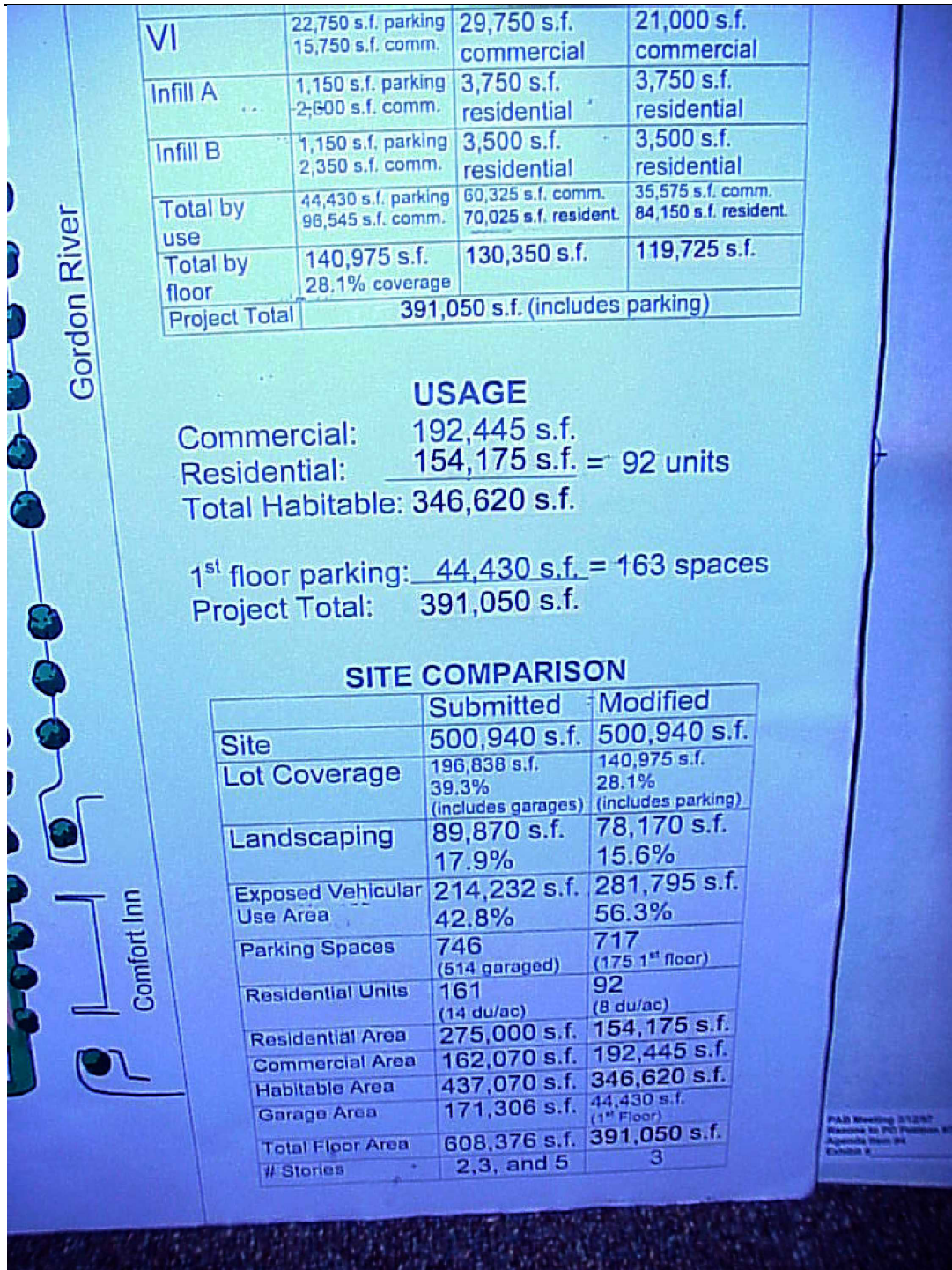
USAGE	
Commercial:	152,445 sq. ft.
Residential:	154,175 sq. ft. = 92 units
Total Habitable:	346,620 sq. ft.
1 <sup>st</sup> floor parking:	44,430 sq. ft. = 163 spaces
Project Total:	391,050 sq. ft.

SITE COMPARISON			
Site	Submitted	Modified	
Lot Coverage	500,940 s.f.	500,940 s.f.	
	100.0% s.f.	100.0% s.f.	
	76.7%	76.7%	
Landscaping	80,670 s.f.	74,770 s.f.	
	16.0%	15.0%	
Exposed Vertical	214,225 s.f.	28,770 s.f.	
Use Area	42,425 s.f.	55.3%	
Parking Spaces	742	717	
	152 (permitted)		
Recreational Units	101		
	20 (permitted)		
Department Area	275,000 s.f.	154,175 s.f.	
Commercial Area	182,070 s.f.	162,445 s.f.	
Residential Area	437,070 s.f.	346,620 s.f.	
Garage Area	171,305 s.f.	64,425 s.f.	
Total Project Area	608,376 s.f.	397,050 s.f.	
	2.3% and		





**City Council Workshop-Meeting November 16, 1998  
8:30 a.m.**





[illegible]

### SITE COMPARISON

	Submitted	Modified
Site	769,269 s.f.	769,269 s.f.
Lot Coverage	398,596 s.f. 52% (includes garages)	215,914 s.f. 28% (with 1 <sup>st</sup> floor pkg)
Landscaping	147,233 s.f. 19%	148,302 s.f. 19%
Exposed Vehicular Use Area	223,440 s.f. 29%	405,053 s.f. 53%
Parking Spaces	1,317 (900 garaged)	788 (112 1 <sup>st</sup> floor)
Residential Units	141 (8 du/ac)	141 (8 du/ac)
Residential Area	206,000 s.f.	206,000 s.f.
Commercial Area	390,000 s.f.	215,914 s.f.
Habitable Area	596,000 s.f.	421,914 s.f.
Garage Area	346,971 s.f. (on 3 floors)	25,461 s.f. (1 <sup>st</sup> Floor)
Total Floor Area	942,971 s.f.	447,375 s.f.
# Stories	1,2 and 3	1 and 2



[illegible]