



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – June 1, 2005 – 9:00 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Bill Barnett, Mayor
Tamela Wiseman, Vice Mayor

Council Members:

William MacIlvaine
Johnny Nocera
Clark Russell
John Sorey, III
Penny Taylor

Also Present:

Robert Lee, City Manager
Robert Pritt, City Attorney
Robin Singer, Community Development Director
Jessica Rosenberg, Deputy City Clerk
Dan Mercer, Public Works Director
Kerry Nielson, Planner
Karen Kateley, Administrative Specialist
Paul Arsenault
Eileen Arsenault
David Corban
Richard Yovanovich
John Passidomo

Falconer Jones
Sue Smith
Henry Kennedy
William Merwin
Suzanne Saltzman
Marty Wasmer
Richard Woodruff
Larry Keesey

Media:

Ilene Stackel, Naples Daily News

Other interested residents and visitors.

INVOCATION AND PLEDGE OF ALLEGIANCE.....ITEM 2

Reverend Michael Bickford, Community Congregational Church

ANNOUNCEMENTSITEM 3

None.

SET AGENDA.....ITEM 4

MOTION by Nocera to SET AGENDA adding Item 6-a(1) (setting a public hearing for a rezone); changing Item 6-a to 6-a(2); adding Item 21 (negotiation with Roetzel & Andress for continued legal services); adding Item 22 (executive session on vessel speeds); continuing Item 9 to June 15, 2005; and withdrawing Item 19. This motion was seconded by MacIlvaine and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

PUBLIC COMMENT.....ITEM 5

None.

CONSENT AGENDA

APPROVAL OF MINUTESITEM 8-a

May 2, 2005, Workshop and May 4, 2005 Regular Meetings as submitted.

SPECIAL EVENTS ITEM 8-b

1) Holiday Evening on Fifth – Fifth Avenue South Association – 12/15/05

RESOLUTION 05-10841.....ITEM 8-c

A RESOLUTION APPROVING A SOUTHWEST FLORIDA MULTI-AGENCY GANG TASK FORCE MUTUAL AID AGREEMENT AND MEMORANDUM OF UNDERSTANDING; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND MEMORANDUM OF UNDERSTANDING; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 05-10842..... ITEM 8-d

A RESOLUTION APPROVING A FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF NAPLES AND TETRA TECH, INC. - HARTMAN AND ASSOCIATES, INC., TO PROVIDE RATE REVIEW AND OTHER FINANCIAL DATA RELATED TO DESIGN AND CONSTRUCTION CONTRACT ADMINISTRATION SERVICES TO EXPAND THE CITY'S RECLAIMED WATER DISTRIBUTION SYSTEM; AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 05-10843.....ITEM 8-e

A RESOLUTION WAIVING COMPETITIVE BIDDING; APPROVING AN AGREEMENT WITH SEATING CONSTRUCTORS USA, INC., TO FURNISH AND INSTALL A NEW BLEACHER SYSTEM FOR THE FLEISCHMANN PARK FOOTBALL FIELD AND BLEACHERS FOR THE TRIPLEX BALL FIELDS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 05-10844..... ITEM 8-f

A RESOLUTION APPROVING A FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF NAPLES AND SCHENKEL SHULTZ ARCHITECTS, TO PROVIDE ADDITIONAL DESIGN SERVICES AND TO EXTEND THE CONTRACT COMPLETION DATE; AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 05-10845.....ITEM 8-g

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF NAPLES AND SANDERS COMPANY, INC., AS THE SOLE SOURCE VENDOR FOR THE PURCHASE OF A SPARE RETURN PUMP AT THE WASTEWATER TREATMENT PLANT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 05-10846..... ITEM 8-h

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF NAPLES AND VALVE AND CONTROLS, DIVISION OF POWER AND PUMPS, INC., AS THE SOLE SOURCE VENDOR FOR THE PURCHASE OF THIRTEEN MAGNETIC FLOW METERS FOR THE GOLDEN GATE WELL FIELD; AUTHORIZING THE CITY

MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 05-10847..... ITEM 8-i
A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF NAPLES AND ELLIS K. PHELPS AND COMPANY, AS THE SOLE SOURCE VENDOR FOR THE PURCHASE OF REPLACEMENT PARTS FOR THE GRIT CLASSIFIER AT THE WASTEWATER PLANT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 05-10848..... ITEM 8-j
A RESOLUTION AUTHORIZING THE PAYMENT OF THE CITY'S PORTION OF CONSTRUCTION SERVICES FOR A SECOND CITY-COUNTY POTABLE WATER INTERCONNECTION; AMENDING THE 2004-05 BUDGET AS ADOPTED BY ORDINANCE 04-10603; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 05-10849..... ITEM 8-k
A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT OF THE DELIVERY AND USE OF RECLAIMED IRRIGATION WATER WITH GREY OAKS COMMUNITY SERVICES, INC., TO PROVIDE CONTINUED RECLAIMED WATER SERVICE; AND PROVIDING AN EFFECTIVE DATE. Title not read.

MOTION by Nocera to APPROVE CONSENT AGENDA ITEMS 8-a THROUGH 8-k; seconded by Russell and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

END CONSENT AGENDA

ORDINANCE (Continued – See Item 4)ITEM 9
AN ORDINANCE DETERMINING REZONE PETITION 05-R1 FOR PROPERTY BOUNDED ON THE EAST BY U.S. 41 NORTH, THE SOUTH BY FIFTH AVENUE NORTH, ON THE WEST BY EIGHTH STREET NORTH, AND ON THE NORTH BY SIXTH AVENUE NORTH, MORE FULLY DESCRIBED HEREIN, IN ORDER TO PERMIT REZONING FROM PD TO A NEW PD; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title not read.

MOTION by Sorey to CONTINUE ITEM 9 TO THE JUNE 15, 2005, REGULAR MEETING; seconded by Nocera and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

City Attorney Robert Pritt announced that Attorney Larry Keesey would replace him during consideration of Items 10, 11, and 12 since Mr. Pritt's firm, Roetzel & Andress, represents the applicant on an unrelated matter and would therefore create the appearance of a conflict of interest.

It is noted for the record that Items 10, 11 and 12 were considered concurrently.

RESOLUTION 05-10851ITEM 10-a
A RESOLUTION DETERMINING CONDITIONAL USE PETITION 05-CU4 TO ALLOW FOR OFF-SITE PARKING FOR 12 SPACES WITHIN 600 FEET OF RETAIL/RESTAURANT PROPERTY LOCATED AT 1201 THIRD STREET SOUTH, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED HEREIN; PROVIDING FOR THE CITY CLERK TO RECORD SAID

CONDITIONAL USE; AND PROVIDING AN EXPIRATION DATE AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:07 a.m.).

RESOLUTION 05-10852 ITEM 10-b

A RESOLUTION DETERMINING A RESIDENTIAL IMPACT STATEMENT FOR PETITION 05-RIS6 LOCATED AT 1201 THIRD STREET SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Robert Pritt (9:07 a.m.).

RESOLUTION 05-10853..... ITEM 11

A RESOLUTION DETERMINING WAIVER OF DISTANCE PETITION 05-WD3 IN ORDER FOR THE THIRD STREET BISTRO, WHICH IS WITHIN 500 FEET OF THREE OTHER ESTABLISHED LICENSEES, TO OBTAIN A LIQUOR LICENSE FOR PROPERTY LOCATED AT 1201 THIRD STREET SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City

Attorney Robert Pritt (9:08 a.m.).

RESOLUTION 05-10854..... ITEM 12

A RESOLUTION DETERMINING LIVE ENTERTAINMENT PETITION 05-LE5 FOR THE THIRD STREET BISTRO LOCATED AT 1201 THIRD STREET, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert

Pritt (9:08 a.m.). This being a quasi-judicial proceeding, Council Members offered the following ex parte disclosures: Wiseman/familiar with the site, and spoke to a petitioner's agent regarding the project plans; Russell/spoke briefly to project architect David Corban; and Nocera, Barnett, Taylor, MacIlvaine, and Sorey/familiar with the site. Notary Public Jessica Rosenberg administered an oath to those intending to offer testimony; all responded in the affirmative.

Project architect David Corban identified his client as Neapolitan Enterprises, the owner of the current Mole Hole retail establishment at 1201 Third Street South. He explained that the proposed change relates to a retail/restaurant use, which he noted received unanimous approval by the Planning Advisory Board (PAB). This would allow off-street parking to be provided in a lot owned by Neapolitan Enterprises directly west of the property. Moreover, on-site parking would also be reconfigured to allow ten spaces to be accessed directly from the alley so as to effect a separation between outdoor seating and pedestrian/vehicular traffic. Mr. Corban also explained that exterior building alternations would be minimal, although doors and windows would be brought to current storm codes. He said that the retail and restaurant uses would be individually owned and separated by a fire protection wall, and that the 1,300 square foot outdoor seating area would be heavily landscaped.

Mr. Corban also explained that there are actually few residences on that section of Third Street South, that the exterior lighting would be discreet, and that the live entertainment would be similar to nearby establishments such as Campiello Restaurant and Tommy Bahama. A waiver of distance was being sought in order to obtain a liquor license for the restaurant.

In response to Council, Mr. Corban stated that the 12 parking spaces being requested in the nearby lot would be used on a first-come basis and that he would provide a signage plan which he assured Council would be discreet. Council Member Nocera however expressed concern that patrons, accessing the bar from the outside, would then walk away carrying alcoholic beverages.

Mr. Corban however explained that the owner would use plantings, a low wall, or other preventative means and that bar service would be limited to patrons actually seated at the outdoor area or the restaurant. Council Member Sorey stressed that the petitioner exercise caution with regard to the sound level of the live entertainment due to the nearby residences.

Public Comment: (9:26 a.m.) **Sue Smith, 11th Avenue South**, (individually sworn) stated that increasing activities on Third Street have created traffic congestion, and that adding more outdoor music would increase the noise level. She also pointed out that the tendency to decrease the width of streets for private development violates the intent of zoning and inhibits their use during emergencies.

MOTION by Wiseman to APPROVE RESOLUTION 05-10851 (ITEM 10-a) AS SUBMITTED; *seconded by Taylor and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).*

MOTION by Wiseman to APPROVE RESOLUTION 05-10852 (ITEM 10-b) AS SUBMITTED; *seconded by Taylor and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).*

MOTION by Wiseman to APPROVE RESOLUTION 05-10853 (ITEM 11) AS SUBMITTED; *seconded by Taylor and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).*

MOTION by Wiseman to APPROVE RESOLUTION 05-10854 (ITEM 12) AS SUBMITTED; *seconded by Taylor and carried 6-1, all members present and voting (MacIlvaine-no, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).*

Council Member MacIlvaine observed that additional live entertainment would only serve to increase the noise level experienced by nearby residences. Council Member Russell also pointed out that while the entertainment is not as contained as some other restaurants and the petitioner had not yet described the orientation of the entertainers, approval could nevertheless be revoked if necessary.

RESOLUTION 05-10855.....ITEM 13
A RESOLUTION DETERMINING FENCE AND WALL WAIVER PETITION 05-FWW1 FOR A 6 FOOT WALL IN THE FRONT SETBACK AREAS ALONG THE EAST AND SOUTH PROPERTY LINES FOR PROPERTY LOCATED AT 1180 AND 1188 GORDON DRIVE, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:34 a.m.). This being a quasi-judicial proceeding, Council Members offered the following ex parte disclosures: Wiseman/visited the residence and received a letter from the petitioner; Nocera/visited the residence and spoke with the Arsenaults; Russell/visited the residence and received a phone call from Mrs. Arsenault; Barnett/familiar with the site and the plans; Taylor/familiar with the residence and the surrounding noise level, and spoke with Mrs. Arsenault on various occasions; MacIlvaine/visited the site and spoke to the petitioner; and

Sorey/familiar with the site and spoke to the petitioner. Notary Public Jessica Rosenberg administered an oath to those intending to offer testimony; all responded in the affirmative.

Community Development Director Robin Singer stated that staff recommends approval of a six-foot wall along the east property line to provide a buffer between the petitioners' property and Gordon Drive and the adjacent Third Street Plaza. She said that she does not however recommend a wall along the south property line (facing 12th Avenue South) saying it is inconsistent with the residential character of the neighborhood. She further recommended that the east wall revert to the permitted three foot height outside the front setback area along the south property line.

Public Comment: (9:38 a.m.) **Suzanne Saltzman, 194 14th Avenue South**, was not present when called. **Marty Wasmer, 3505 Gordon Drive**, was not present when called although his letter was read into the record (Attachment 1).

Council Member Sorey characterized the request as an opportunity to improve the appearance of the area, and suggested landscaping the gravel parking area to the curb. Mrs. Singer said that due to regulations on the height of landscaping in a swale area in the public right-of-way, vine materials close to the wall could be incorporated so as to not obstruct views.

Petitioner Paul Arsenault stated that his house and cottage were built at a time when Gordon Drive setbacks were much less than currently prescribed, and that when he arrived over 20 years ago, the area was significantly quieter. The addition of the Third Street Plaza had however created significant noise and traffic. Mr. Arsenault added that there is also noise from restaurant deliveries as his property is directly across the street from the Plaza's service entrance.

In response to Vice Mayor Wiseman, Mr. Arsenault confirmed his belief that a six-foot wall would alleviate most of the noise; he also noted that it would be of tabby-type masonry construction. Council Member Russell expressed empathy with the petitioner's plight, noting that trucks cannot navigate the service entrance. He however concurred with the appropriateness of a three-foot wall on the south side due to the proximity to the Palm Cottage historic site. Mr. Arsenault also raised the issue of what he described as intense street lighting in defense of his position that a six-foot wall would provide greater privacy and buffering, pointing out that its design would be aesthetically pleasing and enhanced with attractive plantings. Council Member Nocera expressed support of the request, but voiced doubt that the wall would curtail all of the noise.

Noting that the street is not entirely residential, Council Member Taylor differed with staff's recommendation against the six foot south side wall; she also pointed out that this is the access to the Naples Fishing Pier and that Palm Cottage is a public space. Vice Mayor Wiseman said she did not believe the petitioner would have requested the wall if the problem were not serious and therefore suggested granting the waiver until the petitioners' structures are replaced with those which incorporate improved sound proofing elements.

In further discussion, Mr. Arsenault also asked that the City install signage directing that diesel tour buses not idle under a nearby banyan tree which accentuates the noise. City Attorney Pritt

confirmed that the Council can regulate this particular use, and that he is currently drafting a right-of-way ordinance to be presented after Council's summer recess and could include provisions dealing with idling tour buses if deemed necessary.

Public Comment: (10:05 a.m.) **Sue Smith, 11th Avenue South** (sworn individually) urged that Council approve the request without conditions. She noted that the area of the Arsenault residence presents unique problems, and that a public parking lot is necessary to provide access to the Fishing Pier. **Suzanne Saltzman, 194 14th Avenue South** (sworn individually) acknowledged the noise issues discussed, and said she fully supports the request. She added that the Arsenaults are dedicated to the aesthetics and history of Old Naples, and that the wall would be an asset to the neighborhood.

Council Member Nocera proffered a motion to approve the request with no conditions; however, no second was heard. Council Member Sorey moved approval with the condition regarding replacement of the structures as stated by Vice Mayor Wiseman.

In response to Mrs. Arsenault, Director Singer explained that if the wall were demolished by natural disaster, it could be rebuilt to the non-conforming setbacks but also must comply with Federal Emergency Management Agency (FEMA) requirements for flood elevation. Redevelopment of the property under any circumstances would however require that the wall be rebuilt to the correct setbacks and height.

Public Comment: (10:15 a.m.) **Falconer Jones 620 Sandpiper Street** (sworn individually) said that because this house is a contributing structure in the historic district, and therefore exempt from the FEMA 50 percent destruction rule, any language dealing with substantial improvement should be avoided and reconstruction allowed only in the event of complete demolition.

Council Member Sorey then revised his motion to incorporate Mr. Jones' suggestion. Director Singer suggested placing a covenant on the property to notify any future owners of restrictions imposed. Vice Mayor Wiseman however recommended simply recording the resolution.

MOTION by Sorey to APPROVE RESOLUTION 05-10855, AS AMENDED, WITH THE CONDITION THAT IF THE STRUCTURES ON THE PROPERTY ARE DEMOLISHED, THE WALL WOULD BE REBUILT TO THE CORRECT SETBACKS AND HEIGHT; AND AMENDING SECTION 1 AS FOLLOWS: "...TO ALLOW A 6 FOOT HIGH WALL ALONG THE EAST PROPERTY LINE IN ACCORDANCE WITH SHEET A1..." *This motion was seconded by Wiseman and unanimously carried, all members present and voting (Nocera-yes, Sorey-yes, Taylor-yes, MacIlvaine-yes, Wiseman-yes, Russell-yes, Barnett-yes).*

Noting that all details had not been presented, Council Member Russell advised the petitioner to work with staff in order to be sensitive to the neighborhood. Council Member Taylor suggested that the City also work with the owner of Third Street Plaza to install landscape buffers to alleviate the canyon effect produced by walls in this area.

Recess: 10:19 a.m. to 10:28 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

RESOLUTION 05-10856.....ITEM 14
A RESOLUTION DETERMINING THAT ANNEXATION PETITION NUMBER 05-AX1 FOR ANNEXATION OF APPROXIMATELY 82.946 ACRES, LOCATED AT 120 MOORINGS PARK DRIVE, MORE FULLY DESCRIBED HEREIN, BEARS THE SIGNATURES OF ALL OWNERS OF THE PROPERTY IN THE AREA PROPOSED TO BE ANNEXED; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:28 a.m.) who stated that there is only one owner, and that he recommends approval.
Public Comment: None. (10:29 a.m.)

MOTION by Wiseman to APPROVE RESOLUTION 05-10856 AS SUBMITTED; seconded by Nocera and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

ORDINANCE (First Reading).....ITEM 15
AN ORDINANCE AMENDING SECTION 1.2 OF THE CHARTER OF THE CITY OF NAPLES, FLORIDA, IN ORDER TO ANNEX 82.946 ACRES, LOCATED AT 120 MOORINGS PARK DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, AND TO REDEFINE THE BOUNDARIES OF THE CITY OF NAPLES TO INCLUDE SAID PROPERTY; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt who stated that a description of the City's boundaries with the subject property included is included in the ordinance as Exhibit C (10:30 a.m.).

Public Comment: None. (10:31 a.m.)

MOTION by Sorey to APPROVE ITEM 15 AT FIRST READING; seconded by Nocera and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

RESOLUTION 05-10857.....ITEM 16
A RESOLUTION RANKING THE TOP TWO (2) ENGINEERING FIRMS TO PROVIDE PROFESSIONAL STRUCTURAL ENGINEERING FOR THREE CITY BUILDING RENOVATION AND EXPANSION PROJECTS; AUTHORIZING THE CITY MANAGER TO NEGOTIATE WITH THE TOP-RANKED FIRM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:31 a.m.) who stated that Council typically ranks the top three firms but that only two firms had responded.

Public Comment: None. (10:32 a.m.)

MOTION by Nocera to APPROVE RESOLUTION 05-10857 AS SUBMITTED; seconded by MacIlvaine and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

ORDINANCE (First Reading).....ITEM 17
AN ORDINANCE REPEALING SECTION 2-352 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:32 a.m.). (It is noted for the record that Section 2-352 deals with time for acquisition of property or issuance of contracts for improvements financed by bonds.)

Public Comment: None. (10:32 a.m.)

MOTION by Wiseman to APPROVE ITEM 17 AT FIRST READING; seconded by Sorey and unanimously carried, all members present and voting

(MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

RESOLUTION 05-10858.....ITEM 18
A RESOLUTION ELECTING TO ASSUME SPECIAL DISTRICT SERVICE RESPONSIBILITIES OF THE EAST NAPLES FIRE CONTROL AND RESCUE DISTRICT IN AN ANNEXED AREA CONSISTING OF APPROXIMATELY 12.77 ACRES, MORE OR LESS, KNOWN AS NAPLES BAY MARINA (FKA RUFFINA) LOCATED AT 605 SANDPIPER STREET, MORE FULLY DESCRIBED HEREIN; DIRECTING THE CITY CLERK TO FORWARD A COPY OF THIS RESOLUTION TO THE EAST NAPLES FIRE CONTROL AND RESCUE DISTRICT, THE COLLIER COUNTY PROPERTY APPRAISER AND THE COLLIER COUNTY TAX COLLECTOR; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:33 a.m.) who said that while negotiations with the East Naples Fire Control District have to date been unsuccessful, he nevertheless recommended proceeding with the resolution.

Public Comment: None. (10:33 a.m.)

MOTION by Wiseman to APPROVE RESOLUTION 05-10858 AS SUBMITTED; *seconded by Sorey and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).*

Withdrawn (See Item 4)ITEM 19
DISCUSSION REGARDING NAPLES BAY VESSEL SPEED

RESOLUTION (No action taken)ITEM 20-a(1)
A RESOLUTION APPOINTING ONE MEMBER TO THE DESIGN REVIEW BOARD FOR THE BALANCE OF AN UNEXPIRED TERM CONCLUDING MAY 31, 2006; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt. (10:34 a.m.).
There were two terms available for the one Design Review Board applicant. Council chose to fill the complete three-year term as noted below.

RESOLUTION 05-10859.....ITEM 20-a(2)
A RESOLUTION APPOINTING ONE MEMBER TO THE DESIGN REVIEW BOARD FOR A THREE-YEAR TERM COMMENCING ON JUNE 1, 2005 AND EXPIRING MAY 31, 2008; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt. (10:34 a.m.).

Public Comment: None. (10:35 a.m.)

MOTION by Taylor NOMINATING Eugene Martin to the Design Review Board and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

RESOLUTION 05-10860.....ITEM 20-b
A RESOLUTION RECOMMENDING ONE CITY RESIDENT FOR APPOINTMENT TO THE COLLIER COUNTY CONTRACTORS LICENSING BOARD FOR A THREE-YEAR TERM IN THE CATEGORY OF CONSUMER; DIRECTING THE CITY CLERK TO PROVIDE SAID RECOMMENDATION TO THE COLLIER COUNTY COMMISSION FOR APPOINTMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:36 a.m.).

Public Comment: None. (10:36 a.m.)

MOTION by Wiseman NOMINATING Ann Keller to the Collier County Contractors Licensing Board and unanimously carried, all members present

and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

RESOLUTION 05-10861.....ITEM 20-c
A RESOLUTION ACKNOWLEDGING AND CONFIRMING APPOINTMENT BY THE FIFTH AVENUE SOUTH ASSOCIATION OF TWO MEMBERS TO THE STAFF ACTION COMMITTEE, PURSUANT TO SECTION 102-1093 (1)(a)(3) OF THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:37 a.m.).

Public Comment: None. (10:37 a.m.)

MOTION by Sorey CONFIRMING Gloria Kovacs and Jeanette Billings to the Staff Action Committee and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

RESOLUTION 05-10862.....ITEM 20-d
A RESOLUTION APPOINTING ONE CITY COUNCIL MEMBER TO THE STAFF ACTION COMMITTEE (SAC) FOR A THREE-YEAR TERM COMMENCING ON JUNE 1, 2005 AND EXPIRING MAY 31, 2008; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney (10:37 a.m.).

Public Comment: None. (10:37 a.m.)

MOTION by Taylor NOMINATING Tamela Wiseman and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

.....ITEM 21
AUTHORIZE MAYOR TO NEGOTIATE WITH ROETZEL & ANDRESS FOR CONTINUED LEGAL SERVICES (10:38 a.m.)

Public Comment: None. (10:38 a.m.)

MOTION by Taylor to SO AUTHORIZE MAYOR BARNETT; seconded by Wiseman and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

PUBLIC COMMENT (10:39 a.m.)
Henry Kennedy, Tarpon Road, stated that Collier County has no jurisdiction with regard to the vessel speed matter on Naples Bay, and that the Marine Industries Association has very few members who reside within the City. He therefore urged that Council represent the wishes of City residents and uphold the reduced speeds.

CORRESPONDENCE AND COMMUNICATIONS (10:46 a.m.)
Referring to Item 13 on Page 5, Council Member Russell suggested that staff address the intense lighting and glare on Third Street South. He also recommended a cooperative effort with the Third Street Plaza with regard to noise, service access traffic and idling vehicles.

Council Member Taylor requested an update on the airport litigation. City Attorney Robert Pritt stated that he does not yet have information on the brief filed on March 5, and that these matters often take many months.

Council Members Sorey expressed appreciation to the staff for their rapid attention to various issues including removal of seaweed and trash near the Fishing Pier on the morning of May 27.

Mr. Sorey said that he believed that City residents do not have a clear understanding of the impact upon insurance costs which will occur as the result of implementation on November 17 of the new Federal Emergency Management Agency (FEMA) regulations. He said that these changes will also affect the character of the City. He then asked for further information on the houses affected by the VE Zone change and the status of the coastal study. Mayor Barnett read into the record an update (Attachment 2). In response to Mr. Sorey, City Attorney Robert Pritt recommended that the City be a party to any legal action in order to protect its interests. It was the consensus of Council to place this item on the June 13 Workshop and June 15 Regular Meeting agendas.

Recess: 10:59 a.m. to 11:30 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

EXECUTIVE SESSION.....ITEM 22

Mayor Barnett advised that City Council would enter into an executive session with City Attorney Robert Pritt pertaining to Marine Industries Association of Collier County, Inc., v. Florida Fish and Wildlife Conservation Commission and the City of Naples. A copy of the executive session notice is contained in the file for this meeting in the City Clerk's Office.

Executive Session: 11:30 a.m. to 11:53 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

MOTION by Sorey to AUTHORIZE THE CITY ATTORNEY TO DEFEND THE CITY'S VESSEL SPEED ORDINANCE; seconded by Nocera and carried 5-2, all members present and voting (MacIlvaine-yes, Taylor-yes, Russell-no, Sorey-yes, Nocera-yes, Wiseman-no, Barnett-yes).

Recess: 11:54 a.m. to 1:31 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

RESOLUTION 05-10863.....ITEM 6-a (1)

A RESOLUTION SETTING THE PUBLIC HEARINGS REGARDING THE REZONING OF THE PROPERTY AT 100, 200 AND 300 GOODLETTE-FRANK ROAD SOUTH AS PART OF A REGULAR CITY COUNCIL MEETING BEFORE 5:00 P.M.; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (1:31 p.m.) who explained that certain rezonings require that at least one of the hearings occur after 5 p.m. unless a majority of Council Members plus one determines otherwise; this resolution would allow Council to conduct both hearings prior to 5 p.m.

Public Comment: None. (1:32 p.m.)

MOTION by Wiseman to APPROVE RESOLUTION 05-10863 AS SUBMITTED; seconded by Russell and carried 6-1, all members present and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-no, Taylor-yes, Wiseman-yes, Barnett-yes).

It is noted for the record that Items 6-a(2), 6-b and 6-c were considered concurrently.

ORDINANCE (First Reading).....ITEM 6-a (2)

AN ORDINANCE DETERMINING REZONE PETITION 05-R2 FOR PROPERTY LOCATED AT 100, 200 AND 300 GOODLETTE-FRANK ROAD SOUTH, MORE PARTICULARLY DESCRIBED HEREIN, IN ORDER TO PERMIT REZONING FROM PD, PLANNED DEVELOPMENT TO A NEW PD, PLANNED DEVELOPMENT; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (1:33 p.m.).

RESOLUTION (First Reading)..... ITEM 6-b
A RESOLUTION DETERMINING PETITION 05-DA1 FOR A DEVELOPMENT
AGREEMENT LOCATED AT 100, 200, and 300 GOODLETTE–FRANK ROAD SOUTH,
MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE
DATE. Title read by City Attorney Robert Pritt (1:33 p.m.).

RESOLUTION 05-10865.....ITEM 6-c
A RESOLUTION DETERMINING RESIDENTIAL IMPACT STATEMENT PETITION
05-RIS7 FOR THE REDEVELOPMENT OF GRAND CENTRAL STATION, LOCATED
AT 100, 200, and 300 GOODLETTE-FRANK ROAD SOUTH, MORE PARTICULARLY
DESCRIBED HEREIN; SUBJECT TO THE CONDITIONS LISTED HEREIN; AND
PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (1:33 p.m.).
This being a quasi-judicial proceeding, Council Members offered the following ex parte disclosures: Wiseman/met with the petitioner’s attorney and architect, viewed the model, and familiar with the site; Nocera/familiar with site, and met with the petitioner; Russell/met with the petitioner’s architect and attorney, and talked to various members of the public who had expressed support; Barnett/familiar with the site and met with the petitioner and others; Taylor/met with the petitioner’s architect and attorney and spoke to Robert Weissenborn and various members of the public; MacIlvaine/met with the petitioner and his attorney to discuss such issues including the building height, and viewed the model; and Sorey/familiar with the site, met with the petitioner’s attorney and architect, and spoke to William Merwin about the site. Notary Public Jessica Rosenberg administered an oath to those intending to offer testimony; all responded in the affirmative.

Community Development Director Robin Singer stated that the Planning Advisory Board (PAB) had recommended approval of these petitions, and that the one dissenting vote was due to the height of the project.

John Passidomo, agent for petitioners Jack Antaramian and Brampton Road Partners, expressed appreciation for the recommendations for approval from both the Design Review Board (DRB) and the PAB. He then explained that the existing PD (Planned Development) document approved by Council in September 2004 authorized 253 residential units and 235,000 square feet of commercial space over the 21 acre site. Noting that a subsequent market analysis had confirmed the increased demand for residential properties especially within the “D” Downtown District, he asserted that the subject petitions would therefore increase the residential units to 300 and reduce commercial space to 205,000 square feet. Attorney Passidomo then explained that the planning process had been governed by the goals of the “D” Downtown District; namely, to promote orderly redevelopment, improve aesthetics, provide for a prosperous downtown, encourage full-time residential use, promote streets attractive to pedestrians, and to reinforce the area as a community center and meeting place. He added that Civic Design Associates, the firm the City had retained to assist in the creation of the Heart of Naples Plan, had endorsed the project. (A copy of the aforementioned endorsement is contained in the file for this meeting in the City Clerk’s Office.)

Guiding principles in the redesign, Attorney Passidomo said, included creating, as a catalyst, a larger, more dynamic and visually accessible central core as a meeting place for residents and

visitors as well as a usable open space network, and a street grid to integrate what he described as an urban pedestrian village into the central core of the City.

In further discussion, Attorney Passidomo cited the creation of the Florida Gulf Coast University (FGCU) Naples Center, a dedicated linear park link to the waterfront, gateway embellishments, additional landscape amenity decks, and a reduction in the massing of residential structures. These objectives, he added, are facilitated by adding a fourth habitable floor and 10 feet to the height of four internal residential buildings which approximate coverage of 5 percent of the land mass. In support of the additional height, Mr. Passidomo explained that the taller structures would be located 100 feet from a right-of-way and obscured by other residential buildings; he also asserted that the project affords a natural transition from the 42 foot permitted height in Old Naples to the 78 foot project located directly across Goodlette-Frank Road from the subject property. He requested approval of the petitions as submitted.

Project architect David Corban further supported the revised plan as being an increased public benefit, providing improved livability, and adhering to the “D” Downtown District codes. He also explained that 50,000 of the 205,000 square feet of commercial space would be dedicated to the FGCU Naples Center, and that 52 of the 300 residential units would be part of a mixed-use component with the remainder in the residential district at the western portion of the project. There would be 615 parking spaces dedicated to commercial uses, with 550 spaces dedicated to residential spaces. The residential component would have two parking spaces per unit, per the “D” Downtown Code, while the mixed-used component would have one per unit. (It is noted for the record that a copy of Mr. Corban’s visual is contained in the file for this meeting in the City Clerk’s Office.)

In response to Council, Mr. Corban stated that the majority of the residential parking spaces would be beneath the buildings and designated for particular units, although there would also be some undesignated on-street parking; commercial spaces would however be open to all commercial uses. Attorney Passidomo also noted that although the project would not adhere to the proposed Percent For Art program, the nature of the development would symbolize the concept of art in public places. Council Member Taylor asked that the petitioner soften the entryway to the FGCU Naples Center with appropriate landscaping.

While describing the project as attractive, Council Member MacIlvaine said that the additional height would violate the concept of a village within a city as developed by the Heart of Naples Committee (HONC, 41-10 District) and would be visible from U.S. 41. In addition, he said that this precedent could allow another developer to assemble properties that could accommodate four stories. He therefore said he would approve the project only with the staff recommendation of a 42 foot maximum building height. Later in the meeting, Community Development Director Robin Singer said she believed the petitioner could redesign the site plan to meet all requirements without placing any parking along Goodlette-Frank Road.

Vice Mayor Wiseman however took the position that the 42 foot height limitation mandated by the 2000 Charter amendment referendum had not been intended to apply to strictly residential buildings within a PD. She added that the project is indicative a desire for flexibility and creativity that maximizes public benefit. Mrs. Wiseman further predicted that the extra height

would not be clearly visible nor matter to the average resident who sees all the benefits to this project in an otherwise blighted area. Council Member Nocera said he believed the project is much better than originally approved and would benefit the City.

Public Comment: (2:41 p.m.) **William C. Merwin, FGCU President**, said the university's Naples Center, which houses the Renaissance Academy, is currently located at 1010 Fifth Avenue South where it has two years remaining on a five-year lease. He added that the Academy has grown to some 3,000 students and that the university would play a major role in the cultural development of the community, noting that it would contain a 350 seat auditorium.

Mayor Barnett said that while the height had initially concerned him, he believed the project would provide an entrance to the City as well as significant public benefit. Council Member Russell called the proposal an improvement over the existing PD, and pointed out that it provides improved open space. Noting that the increase in residential units would further support the commercial, Mr. Russell proffered a motion of approval which was seconded by Council Member Nocera.

City Attorney Pritt recommended that approval also reflect correspondence dealing with continued use of a 30-foot setback by Robert Weissenborn (Naples Armature Works). He also questioned conditions 4 and 5 of Section 3 of the ordinance which deal with intersection designs of the Third Avenue South extension at 10th Street and Goodlette-Frank Road, and access from U.S. 41 to the rear of the abutting properties fronting U.S. 41. He also characterized as unnecessary the recital in the last sentence in Section V of the PD indicating that dedication of the linear public park easement to the City entitles the land owner to a density of 300 dwelling units. Attorney Passidomo agreed to delete this sentence. Director Singer explained that condition 5 was meant to address the Weissenborn property, and that condition 4 had been carried over from previous approvals and should be retained. Attorney Passidomo concurred and proposed that Council substitute his May 9, 2005, letter to Mr. Weissenborn for condition 5. (See Attachment 3.) Mrs. Singer also noted a scrivener's error in the numbering of Section 3 which would be corrected.

Council Member Taylor stated that this plan is a significant improvement in terms of massing and circulation, and does in fact create a village effect despite the increased height. She added her belief that Grand Central Station is the key to redevelopment of the district. Although noting his initial dismay regarding the height, Council Member Russell expressed approval of the design and public benefits. Vice Mayor Wiseman concurred and recommended proceeding to avoid further delays in development.

MOTION by Russell to APPROVE ITEM 6-a (2) AT FIRST READING, AS AMENDED, AS FOLLOWS: DELETING THE LAST SENTENCE IN SECTION V OF THE PD ENTITLING LAND OWNER TO A DENSITY OF 300 DWELLING UNITS (FOR DEDICATION OF A LINEAR PARK EASEMENT); RENUMBERING SECTION 3 TO REFLECT ITEMS 1 THROUGH 6 AND SUBSTITUTING FOR ITEM 6 PARAPHRASED LANGUAGE FROM MAY 9, 2005, LETTER FROM PETITIONER'S ATTORNEY PASSIDOMO TO ROBERT WEISSENBORN "TO PROVIDE A 30 FOOT SETBACK AREA ALONG THE SOUTHERN PERIMETER OF

THE GRAND CENTRAL STATION DEVELOPMENT WHERE IT IS ADJACENT TO THE NAPLES ARMATURE WORKS BUILDING AT 1095 FIFTH AVENUE SOUTH, WEST OF A NORTH/SOUTH DRIVEWAY CONNECTING GRAND CENTRAL STATION WITH U.S. 41 EAST (THE 30 FOOT SETBACK AREA). THERE WILL BE NO STRUCTURES OR LANDSCAPING INSTALLED IN EITHER THE DRIVEWAY OR THE 30 FOOT SETBACK AREA. This motion was seconded by Nocera and carried 6-1, all members present and voting (Wiseman-yes, Nocera-yes, MacIlvaine-no, Taylor-yes, Russell-yes, Sorey-yes, Barnett-yes).

MOTION by Wiseman to **APPROVE ITEM 6-b AT FIRST READING, DELETING REFERENCE IN SECTION 1 TO THE SITE PLAN AND INSERTING “THE APPROVAL IS BASED ON THE PROVISIONS OF THE DEVELOPMENT AGREEMENT ATTACHED AS EXHIBIT D.”** This motion was seconded by Taylor and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

MOTION by Sorey to **APPROVE RESOLUTION 05-10865 (ITEM 6-c) AS SUBMITTED;** seconded by Wiseman and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

RESOLUTION 05-10866.....ITEM 7
A RESOLUTION DETERMINING PETITION 05-N1 TO EXPAND A NONCONFORMING HOUSE AND GARAGE AT 12 ELEVENTH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:11 p.m.).

Recess: 3:12 p.m. to 3:17 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

This being a quasi-judicial proceeding, Council Members offered the following ex parte disclosures: Council Member Sorey said he visited the site; all other Council Members indicated no contact. Notary Public Jessica Rosenberg administered an oath to those intending to offer testimony; all responded in the affirmative.

Attorney John Passidomo explained that his clients, Mr. and Mrs. Charles Camalier, had purchased their 100-year-old property several years ago with the intent of preserving it as a historic resource. He explained that they plan to enlarge the existing non-conformities by extending both the garage and kitchen by approximately two feet in order to accommodate various modern conveniences.

Community Development Director Robert Singer stated that the staff report has been provided as part of the meeting materials.

Public Comment: None. (3:20 p.m.)

MOTION by Taylor to **APPROVE RESOLUTION 05-10866 AS SUBMITTED;** seconded by Sorey and unanimously carried, all members present and voting

City Council Regular Meeting – June 1, 2005 -- 9:00 a.m.

(MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

ADJOURN
3:20 p.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Jessica R. Rosenberg, Deputy City Clerk

Minutes Approved: 8/17/05

Martin M. Wasmer
3505 Gordon Drive
Naples, Florida 34102

6/1/05 City Council Regular Meeting
Attachment 1, Page 1 of 1

May 31, 2005

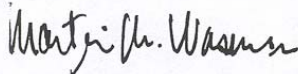
Mayor and Council
City Hall
935 Eight Street South
Naples, FL 34102

Dear Mayor Barnett & City Council Members:

I am writing to support the request by Paul and Eileen Arsenault to construct a wall on their property on the corner of 2nd Street and 12th Avenue South. The reasons for my support are many, as is the rationale for this request. At one time I was a tenant in the "Red Cottage" located on 2nd Street South and I have been a frequent visitor for the past 15 years. This property represents one of the most spectacular historical properties in Naples, but it has been rendered almost uninhabitable by a number of factors. As Naples grows so goes the traffic; with 2nd Street South the primary commercial access to South Naples, the noise from the street is constant. The increase of visitors to Naples landmark Pier is located one block to the east making the 2nd Street and 12th Avenue intersection one of the most traveled. Finally, the location of The Plaza, a busy commercial/retail center directly across the street (which includes nightly music from the restaurants), would suggest that this request is well beyond reasonable.

As an Old Naples resident for the past 25 years, I am in support of the proposed addition to one of Naples most charming properties. I congratulate the Arsenaults for maintaining this property in the face of the redevelopment of our community.

Sincerely,



Martin M. Wasmer

6/1/05 City Council Regular Meeting
Attachment 2, Page 1 of 1

Fred Coyle called, and said that since the County and City will have their breaks around the same time, the following is suggested:

The County will continue negotiating with FEMA to have the data evaluated and the maps revised. The County Attorney thinks the City and the County will have to declare their legal intentions within 30 days, and will coordinate that effort with the City Attorney. He is recommending the City provide support to any legal action taken by the County to have the maps revised or the implementation delayed.

CHEFFY PASSIDOMO 6/1/05 City Council Regular Mtg.
WILSON & JOHNSON Attachment 3, Page 1 of 1

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F. EDWARD JOHNSON
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ERIN K. DEGNAN

OF COUNSEL:
GEORGE L. VARNADOE
DIRECT DIAL: (239) 438-1529
DIRECT FAX: (239) 261-0884

Via Facsimile 262-1771

May 9, 2005

Mr. Robert Weissenborn, Sr.
Suncoast Properties of Naples, Inc.
P.O. Box 2293
Naples, Florida 34104

Re: Grand Central Station


Dear Mr. Weissenborn:

A copy of your April 29, 2005 correspondence to the Naples Planning Advisory Board has been provided to me. I called you earlier today to discuss your letter and, in your absence, spoke with Mrs. Weissenborn about it.

I informed Mrs. Weissenborn that when we switched architects from Elkus/Manfredi to Architectural Network, we failed to point out to them that we had voluntarily agreed during prior public hearings before City Council to provide a 30 foot setback area along the southern perimeter of the Grand Central Station development where it is adjacent to your building at 1095 Fifth Avenue South west of a north/south driveway (the "Driveway") connecting Grand Central Station with U.S. 41 East (the "30 Foot Setback Area"). Unfortunately, the plans presented to the Design Review Board at its hearing on April 27, 2005 incorrectly indicated that a landscape buffer would be planted in this area. This letter shall confirm that we voluntarily propose that there be no structures or landscaping installed in either the Driveway or the 30 Foot Setback Area.

Please let me know if you would like to discuss this matter.

Very truly yours,


John M. Passidomo
For the Firm

JMP/mc

cc: Chairman Gary Price and Members, Naples Planning Advisory Board (via facsimile to each)
Robin D. Singer, AICP, Naples Community Development Director (via facsimile 213-1045)

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