



City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

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**City Council Regular Meeting – January 19, 2011 – 8:27 a.m.**

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Mayor Barnett called the meeting to order and presided.

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

**Present:**

Bill Barnett, Mayor  
John Sorey, III, Vice Mayor

**Council Members:**

Douglas Finlay  
Teresa Heitmann  
Gary Price, II  
Samuel Saad, III  
Margaret Sulick

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**Also Present:**

William Moss, City Manager  
Robert Pritt, City Attorney  
Tara Norman, City Clerk  
Roger Reinke, Assistant City Manager  
Vicki Smith, Technical Writing Specialist  
Stephen Weeks, Technology Services Director  
Stephen McInerney, Fire Chief  
Thomas Weschler, Police Chief  
Michael Leslie, Asst. Comm. Services Director  
Denise Perez, Human Resources Director  
Robin Valdario, Human Resources Generalist  
Adam Benigni, Planner  
Robin Singer, Planning Director  
Robert Middleton, Utilities Director  
Erica Goodwin, Planner  
Michael Bauer, Natural Resources Manager  
Ann Marie Ricardi, Finance Director  
Gregg Givens, Grants Coordinator  
David Lykins, Community Services Director  
Steven Hunton, Paramedic  
Austin Green, Firefighter  
Adam Nash, Firefighter  
William Fedak, Police Officer  
George Archibald, Traffic Engineer

Mike Carlson  
Larry Schultz  
Alan Parker  
John Passidomo  
Richard Yovanovich  
Matt Kragh  
Jim Boula  
Ellie Krier  
Charles Thomas  
Skip Quillen  
Lou Vlasho  
Donald Evans  
Michelle Evans  
Edgar Barreto & Family  
Michael O'Regan  
Patricia Fishburn  
Calvin Pratt  
Joshua Menghini  
Susan Canipelle  
Astrid Maillard

**Media:**

Jenna Buzzacco-Foerster, Naples Daily News

Other interested citizens and visitors

**INVOCATION AND PLEDGE OF ALLEGIANCE..... ITEM 2**  
(8:28 a.m.) Pastor Mike Carlson, Berean Baptist Church.

**PUBLIC COMMENT ..... ITEM 5**

(8:29 a.m.) **Edgar Barreto and family, Cove Inn**, thanked Council for its leadership within the community. Also noting that his family is a group of cross-country runners, Mr. Barreto presented a key to the city of Muncie, Indiana, which they had received while transversing the country. **Larry Schultz, Naples, and Alan Parker, 741 Third Street South**, both expressed concern that the airport's environmental assessment does not include input from the City, and reiterated past concern that the current 75,000-pound weight limit for aircraft will be increased should the proposed extension of runway 5/23 proceed; this will alter the character of the community, they added. They requested that the City comment on the aforementioned assessment to the FAA (Federal Aviation Administration). Mr. Parker provided Council with a copy of his December 16, 2010, letter to the FAA (Attachment 1), indicating that he had not received a response to date. In response to Council Member Heitmann, Mayor Barnett indicated that discussion of the weight limit could be addressed under correspondence and communications later during that meeting.

**ANNOUNCEMENTS..... ITEM 3**

Mayor Barnett proclaimed February as Bring a Book, Bring a Friend for Children's Literacy month, following which Fire Chief Stephen McInerney recognized various staff for their lifesaving efforts. Various department directors presented Employee Service Awards; a list of employees receiving awards is contained in the file for this meeting in the City Clerk's Office.

**PUBLIC COMMENT (continued from above) .....Item 5**

(9:16 a.m.) **Michael O'Regan, representing Paddy Murphy's Irish Pub**, explained that he wished to petition Council regarding bar/restaurant establishments to remain open until 2:00 a.m. on Sunday rather than the current 12:00 a.m. required closing. Vice Mayor Sorey noted that he would further address this request during correspondence and communications later during that meeting.

**SET AGENDA (add or remove items)..... ITEM 4**

**ACCLAMATION to SET THE AGENDA removing Item 6-b (budget amendment re: FASBID funds) from the Consent Agenda for separate discussion; and adding Item 17 (action on removal of temporary lighting on Fifth Avenue South, pursuant to discussion at 01/18/11 workshop) and Item 18 (Blue Ribbon Committee on employee compensation, requested by Price) / 7-0.**

**CONSENT AGENDA**

**APPROVAL OF MINUTES..... ITEM 6-a**

November 15, 2010 Workshop, December 1, 2010 Regular, December 13, 2010 Workshop, and December 15, 2010 Regular Meeting minutes; as submitted.

**RESOLUTION 11-12821 .....ITEM 6-c(1)**

**A RESOLUTION AMENDING THE 2010-11 BUDGET ADOPTED BY ORDINANCE 10-12761 TO APPROPRIATE FUNDS FOR A STUDY RELATED TO THE US 41 TRANSPORTATION CORRIDOR; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**CLERK'S TRACKING NUMBER .....ITEM 6-c(2)**

**APPROVING AN AGREEMENT BETWEEN THE CITY OF NAPLES AND KIMLEY-HORN & ASSOCIATES FOR A RE-DESIGNATION FEASIBILITY STUDY RELATED TO THE US 41 TRANSPORTATION CORRIDOR (\$24,900).**

**RESOLUTION 11-12822 .....ITEM 6-d**

**A RESOLUTION APPOINTING ONE RETIREE, CURRENTLY RECEIVING BENEFITS FROM THE GENERAL EMPLOYEES RETIREMENT SYSTEM, TO THE BOARD OF TRUSTEES OF THE CITY OF NAPLES GENERAL RETIREMENT SYSTEM FOR A FOUR-YEAR TERM; AND PROVIDING AN EFFECTIVE DATE (It is noted for the record that Voncile Whitaker was appointed).** Title not read.

**RESOLUTION 11-12823 ..... ITEM 6-e**  
**A RESOLUTION ACCEPTING A 2011 FLORIDA DEPARTMENT OF LAW ENFORCEMENT SUBGRANT AWARD UNDER THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM FOR AN ELECTRONIC CONTROL DEVICE WEAPONS PURCHASE; AUTHORIZING THE MAYOR TO EXECUTE THE CERTIFICATION OF ACCEPTANCE; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**MOTION by Price to APPROVE CONSENT AGENDA except Item 6-b (budget amendment re: FASBID funds; seconded by Sulick and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).**

**END CONSENT AGENDA**

**RESOLUTION 11-12824 ..... ITEM 6-b**  
**A RESOLUTION AMENDING THE 2010-11 BUDGET AND CAPITAL IMPROVEMENT PROGRAM ADOPTED BY ORDINANCE 10-12761, CREATING A NEW FUND 138 TO TRACK THE REVENUES, EXPENSES AND TRANSFERS RELATED TO THE FIFTH AVENUE SOUTH BUSINESS IMPROVEMENT DISTRICT (FASBID); ESTABLISHING A BUDGET; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (9:21 a.m.) City Manager William Moss indicated that the fund would be established in accordance with the agreement between the City and the FASBID, as well as Resolution 10-12820, which states that monies will be transferred within 45 days of receipt by the City. Finance Director Ann Marie Ricardi pointed out that funds could however not be transferred until the 501(c)3 designation had been received by the aforementioned Fifth Avenue South entity. Ms. Ricardi confirmed for Council Member Heitmann that the assessments had been due on January 16 and should they became delinquent, a lien would be placed on the subject property.

**Public Comment:** (9:23 a.m.) None.

**MOTION by Sorey to APPROVE RESOLUTION 11-12824 as submitted; seconded by Saad and carried 6-1, all members present and voting (Finlay-yes, Heitmann-no, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).**

**RESOLUTION 11-12825 ..... ITEM 7**  
**A RESOLUTION DETERMINING PETITION 10-SD7 FOR PRELIMINARY AND FINAL PLAT APPROVAL FOR THE OASIS ON THE GULF SUBDIVISION, A REPLAT OF 14 EXISTING PLATTED LOTS AND PORTIONS OF TWO ADDITIONAL PLATTED LOTS AND THE ADJACENT VACATED ALLEYS INTO THREE PLATTED LOTS WITH AN ACCESS EASEMENT FOR PROPERTY LOCATED AT 30 15TH AVENUE SOUTH AND 25 16TH AVENUE SOUTH, (320 FEET BY 250 FEET OF GULF-FRONT PROPERTY BETWEEN 15TH AND 16TH AVENUES SOUTH), OWNED BY LA PLAYA NAPLES INVESTMENT, LLC, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (9:24 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Saad and Price/visited the site, and spoke with the petitioner and petitioner's agent; Finlay and Barnett/familiar with the site; and Sulick, Heitmann and Sorey/visited the site; in addition, all disclosed a telephone call from the petitioner late the prior day, although the majority of Council Members indicated that they had been unable to return that call. Planning Director Robin Singer provided a brief overview of her memorandum dated December 21 (Attachment 2), noting that an easement would be placed along the rear lot line of one of the outer replatted lots thereby providing access to the interior lot; no flag lot is being created as all three front on the Gulf of Mexico and staff recommended approval, she added.

Attorney John Passidomo, agent for the petitioner, provided details of the replat, stressing that the petitioner agreed with the conditions set forth in the resolution and therefore requested approval.

**Public Comment:** (9:29 a.m.) **Patricia Fishburn, 1575 Gulf Shore Boulevard South**, stated that her home is directly to the east of the subject replat, expressing concern that the proposed size of the lots would adversely impact her Aqualane Shores neighborhood. In response, petitioner's agent, Attorney Passidomo, utilized an electronic presentation containing aerial photographs reflecting many other similar sized lots along Gulf Shore Boulevard South.

It was then noted that zoning was imposed after the original Plan of Naples and necessitated the replatting of the original 33-foot wide lots. In response to Council Member Price, Mr. Passidomo explained that an adjacent property owner had indicated a willingness to terminate a 1959 utility easement should provision of utilities to the subject lots be from either 15<sup>th</sup> or 16<sup>th</sup> Avenue South. Ms. Singer then explained that replats are not routinely brought to neighborhood associations for review and City Attorney Pritt requested that Traffic Engineer George Archibald testify as to the prior noted easement. Mr. Archibald clarified that water and sewer is provided to the subject lots via the streets, not the alleys, and therefore the vacation of the alleys would not be an issue.

**MOTION by Price to APPROVE RESOLUTION 11-12825 amending as follows: Section 4: "This acceptance and approval shall expire unless the (Record) Plat has been filed...". This motion was seconded by Sorey and carried 6-1, all members present and voting (Finlay-yes, Saad-yes, Sorey-yes, Sulick-yes, Heitmann-no, Price-yes, Barnett-yes).**

**RESOLUTION 11-12826 ..... ITEM 8**  
**A RESOLUTION DETERMINING PETITION 10-NC4 FOR THE EXPANSION OF A NONCONFORMITY IN THE R3T-12 DISTRICT, TO ALLOW FOR THE VERTICAL AND HORIZONTAL EXPANSION AND RENOVATION OF A MAIN HOUSE AND GUEST HOUSE ALONG THE EXISTING NONCONFORMING SETBACKS AND TO ALLOW THE GUEST HOUSE TO BE ELEVATED 20 INCHES AND THE MAIN HOUSE ONE INCH TO MEET MINIMUM FLOODPLAIN CRITERIA FOR PROPERTY LOCATED AT 295 SECOND AVENUE SOUTH, OWNED BY KRISTEN WILLIAMS, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (9:41 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures in addition to noting receipt of numerous e-mails: Saad, Finlay, Price and Barnett/familiar with the site but no contact; Sulick and Heitmann/visited the site but no contact; and Sorey/visited the site and spoke with the petitioner's agent. Planner Erica Goodwin reviewed her memorandum dated December 21, 2010 (Attachment 3) which provided details of the above petition, noting that staff recommended approval as had the Planning Advisory Board (PAB) which had also requested that installation of sidewalks along Second and Third Streets South be included as a condition of approval.

Architect Matt Kragh, agent for the petitioner, utilized an electronic presentation (a printed copy of which is contained in the file for this meeting in the City Clerk's Office) and explained that due to discrepancies, the main house is to be elevated 9-inches, rather than the 1-inch reflected on the original plans. The owner wishes to proceed with renovations by increasing the elevations more than required in anticipation of further changes in floodplain map requirements, he said. Mr. Kragh also noted that SK1 (proposed site plan B / Attachment 4) reflects changes as a result of discussions with adjacent neighbors and the above cited PAB condition regarding sidewalks.



Public Comment: (9:56 a.m.) None.

**MOTION by Price to APPROVE RESOLUTION 11-12826 as submitted; seconded by Heitmann and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).**

Recess: 9:56 a.m. to 10:10 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

**RESOLUTION 11-12827 ..... ITEM 9**

**A RESOLUTION DETERMINING VARIANCE PETITION 10-V12 FROM SECTION 56-45(b) OF THE CODE OF ORDINANCES, CITY OF NAPLES, TO ALLOW A POOL TO ENCROACH 6 FEET 3-5/8 INCHES INTO THE FRONT YARD SETBACK WHERE 25 FEET IS REQUIRED, IN THE R3-12 MULTIFAMILY DISTRICT FOR PROPERTY OWNED BY KRISTEN WILLIAMS AND LOCATED AT 287 11TH AVENUE SOUTH, MORE FULLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Robert Pritt (10:10 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Saad, Finlay, Price, Sulick and Heitmann/visited the site but no contact; Barnett/familiar with the site but no contact; and Sorey/visited the site and spoke with the petitioner's agent. Planner Adam Benigni briefly reviewed his memorandum dated December 21, 2010 (Attachment 5), noting that although the Planning Advisory Board (PAB) had voted 5-1-2 (two members abstaining) to recommend approval, staff found that the petition did not meet several of the variance criteria and therefore recommended denial.

Architect Matt Kragh, agent for the petitioner, utilized an electronic presentation (a printed copy of which is contained in the file for this meeting in the City Clerk's Office) to depict the main structure, which was built in 1912, 45 years prior to the implementation of zoning standards, and to rebut staff's finding with regard to specific criteria (Attachment 6). As reflected above, the intent is to alter the pool's location from that originally proposed by moving it to the east approximately 6 feet; the pool is to remain the same size (Attachment 7 / comparison of original and proposed site plans, sheet SK1). This amendment will center the pool with the main structure, a fact which had been overlooked during the prior renovation planning process, Mr. Kragh pointed out.

During discussion of staff's interpretation of the variance criteria, Council Members Price and Sulick supported recommendation of denial. The majority of Council indicated that means should be found to encourage preservation of historic structures and their character, stating that the plan under consideration reflects a prudent approach and the motion below was proffered.

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

**MOTION by Saad to APPROVE RESOLUTION 11-12827 as submitted; seconded by Finlay and carried 5-2, all members present and voting (Price-no, Sorey-yes, Sulick-no, Saad-yes, Finlay-yes, Heitmann-yes, Barnett-yes).**

**RESOLUTION 11-12828 ..... ITEM 10**

**A RESOLUTION DETERMINING SITE PLAN WITH DEVIATIONS PETITION 10-SPD4 TO ALLOW A NEW MUNICIPAL AQUATIC CENTER TO INCLUDE A POOL AND TWO STRUCTURES TOTALING 3,040 SQUARE FEET TO BE LOCATED 6 FEET FROM THE EAST PROPERTY LINE WHERE 25 FEET IS REQUIRED, 6 FEET FROM THE SOUTH PROPERTY LINE WHERE 10 FEET IS REQUIRED AND 19 FEET 4 INCHES FROM THE WEST PROPERTY LINE WHERE 25 FEET IS REQUIRED, TO ALLOW THE POOL 6 FEET FROM THE WEST PROPERTY LINE WHERE 25 FEET IS REQUIRED AND TO ALLOW THE**

**SURROUNDING POOL FENCE AND WALL TO BE 8 FEET ABOVE THE CROWN OF THE ROAD IN PLACE OF THE EXISTING MUNICIPAL POOL, OWNED BY THE CITY OF NAPLES, LOCATED AT 451 11<sup>TH</sup> STREET NORTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (10:39 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Price, Barnett, and Sulick/familiar with the site but no contact; Saad/familiar with the site and spoke with numerous neighbors; Heitmann/familiar with the site, and reviewed Planning Advisory Board (PAB) meeting; Saad/familiar with the site and spoke with neighbors; and Sorey/visited the site, spoke with Lodge McKee and City Manager William Moss. Planning Director Robin Singer reviewed her memorandum dated December 21, 2010 (Attachment 8), pointing out that should the site plan be approved that day, it will remain valid for 48 months. Provided that setbacks are not further reduced and the fence height not increased, the design of the structures could be amended without additional consideration by Council although Design Review Board (DRB) approval is still needed, she added. Staff recommended approval, she said, noting that three PAB Members had voted against the petition (4-3) due to concern that the Board had not been consulted prior as to the planning process of the project. She confirmed for Council that the River Park community and those immediately adjacent to the site supported the petition.

Council Member Price took issue with the extent of the deviations requested, saying that the City should hold itself to the same standards and restrictions imposed on others and therefore he could not support the petition; a smaller facility could be built within the setbacks, he said. While Council Member Finlay indicated that a public benefit is to be derived from this project, Mr. Price maintained his position. Following a brief history provided by Community Services Director David Lykins of the outcomes of various prior discussions, he stated that in fact the facility can be built within the setbacks although its size would be greatly reduced. The size and shape of the parcels containing City facilities in that area are such that the current pool, the basketball court, and the River Park Community Center building, were not built within setbacks, Mr. Lykins observed. Mr. Price stated that the City cannot afford the pool facility as designed and this fact must be recognized. Council Member Sulick agreed, noting that the pool should be built within current zoning requirements and available funding. A brief discussion of the budgetary estimated shortfall of \$600,000 ensued and Council Member Saad affirmed his support for the project as proposed, reiterating that it had been designed per Council direction, with neighborhood input and support. Approval that day would allow time to ascertain a means of proceeding, he added. Vice Mayor Sorey agreed, saying that he believed staff had been forthcoming in regard to encroachments and in December, Council had in fact delayed construction of the pool for one year to allow members of the community to continue their fundraising efforts.

In response to Vice Mayor Sorey, Ms. Singer confirmed that the petition could be continued or withdrawn, but costs incurred to this point, i.e. advertizing and notices, would again be required. Therefore, she recommended that Council proceed with approval due to the fact that should redesign occur, site plan deviations would be lessened, not increased.

**Public Comment:** (11:05 a.m.) None.

**MOTION by Heitmann to APPROVE RESOLUTION 11-12828 as submitted; seconded by Saad and carried 5-2, all members present and voting (Finlay-yes, Heitmann-yes, Saad-yes, Sorey-yes, Price-no, Sulick-no, Barnett-yes).**

Following the above vote, Council Member Saad recommended that a future workshop discussion be scheduled to ascertain Council's commitment to actually providing a new pool for the River Park community.

**RESOLUTION 11-12829 ..... ITEM 11**  
**A RESOLUTION DETERMINING RIGHT-OF-WAY PERMIT APPLICATION 2010-090 FOR BLEU PROVENCE RESTAURANT LOCATED AT 1234 EIGHTH STREET SOUTH FOR VALET SERVICE; AUTHORIZING THE CITY MANAGER TO APPROVE THE RIGHT-OF-WAY PERMIT APPLICATION; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (11:08 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Saad and Heitmann/familiar with the site and spoke with the petitioner; Finlay and Barnett/familiar with the site but no contact; Price and Sorey/visited the site and spoke with the petitioner and agent; and Sulick/visited the site but no contact. Traffic Engineer George Archibald, noting that the next item for consideration is also a right-of-way permit application, provided a brief review of the process involved with regard to this permissive use. He also highlighted his memorandum dated December 20, 2010 (Attachment 9), wherein he noted the location of this establishment at the southern terminus of Eighth Street South which is one-way traffic; due to the unique location, staff recommends approval of the permit. The permit would also allow the valet service use of several public parking spaces, he added, although the intent is to park vehicles along 13<sup>th</sup> Avenue South adjacent to a vacant lot, thereby freeing public parking spaces for use by patrons of the City Dock and other nearby establishments along 12<sup>th</sup> Avenue South. In response to Vice Mayor Sorey, Mr. Archibald clarified that the petitioner would be required to perform certain improvements, as well as maintain, the proposed parking area, details of which had been included within the "Special Conditions" document (a copy of which is contained in the file for this meeting in the City Clerk's Office).

Attorney Richard Yovanovich, agent for the petitioner, agreed with the overview provided by Mr. Archibald, adding that the parking plan has already been in use and the petitioner seeks Council approval for use of the right-of-way by their valet service.

**Public Comment:** (11:19 a.m.) **Jim Boula, 702 Broad Avenue South**, as a resident at the City Dock, urged approval as the above parking plan removes vehicles from public parking spaces in the 12<sup>th</sup> Avenue South area.

Council Member Price expressed concern that the maintenance of improvements did not appear to be specifically referenced in the aforementioned "Special Conditions" document and following a brief discussion, the motion below was proffered.

**MOTION by Sorey to APPROVE RESOLUTION 11-12829 amending as follows: Special Conditions (#8): "...surfaces. Improvements and continued maintenance by permittee shall occur under the direction of City staff."**  
**This motion was seconded by Saad and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).**

**RESOLUTION 11-12830 ..... ITEM 12**  
**A RESOLUTION DETERMINING RIGHT-OF-WAY PERMIT APPLICATION 2011-022 FOR LE LAFAYETTE FRENCH RESTAURANT LOCATED AT 375 13<sup>TH</sup> AVENUE SOUTH FOR VALET SERVICE; AUTHORIZING THE CITY MANAGER TO APPROVE THE RIGHT-OF-WAY PERMIT APPLICATION; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (11:23 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members

then made the following ex parte disclosures in addition to acknowledgement of receipt of numerous emails: Saad/visited the site and spoke with the petitioner and a neighbor; Finlay and Price/visited the site and spoke with the petitioner; Barnett/visited the site and spoke with the petitioner's agent; Sulick/visited the site but no contact; Heitmann/familiar with the site and spoke with the petitioner; and Sorey/visited the site and spoke with the petitioner and petitioner's agent. Traffic Engineer George Archibald noted that this permit application differs from the prior in that the subject establishment has private parking for valet service but is seeking a pick-up/drop-off point along 13<sup>th</sup> Avenue South in front of the restaurant. Upon review of the current valet service, Mr. Archibald noted that it had become apparent that it was not being utilized by patrons who wish to arrive by a front door, not via an alley or the rear entrance, he said. The application involves the use of three parking spaces during evening hours only and staff recommends approval, he said, as this particular type of restaurant generates a lesser turnover rate of public parking spaces (average dining time between one and two hours). However, staff also recommends a review of this proposal 90-days following implementation, he added, so as to ascertain the long-term benefit to the entire Third Street South area. Special conditions are contained in a separate document (a copy of which is contained in the file for this meeting in the City Clerk's Office) addressing the route(s) to be used by the valet service when moving the vehicles to and from the rear parking lot.

Vice Mayor Sorey referenced the January 14 and January 16 e-mails from Barbara Walker, representing Neopolitan Enterprises (appended hereto as Attachment 10 and 11 / Exhibits B and A respectively) wherein she questioned whether the subject petitioner had adhered to the correct process for the request. Mr. Archibald confirmed that proper protocol had in fact been followed.

Attorney Richard Yovanovich, agent for the petitioner, noted that the petitioner had in the prior year sought a conditional use permit which had included the aforementioned evening valet parking plan located in the rear of the site. The City's Third Street South parking analysis had not been completed at that time but had subsequently revealed that only 63% of parking spaces are in fact utilized during peak visitation to the area. Should the subject permit be approved allowing patrons to drop off their vehicles at the front entrance for the 90-day trial period proposed by Ms. Walker in Exhibit A (see Attachment 11), the data collected would reveal whether valet parking is even needed. Petitioner Astrid Maillard then recited figures reflecting the success of her establishment and urged approval.

**Public Comment:** (11:38 a.m.) **Calvin Pratt, 4850 Whispering Pine Way**, as the landlord of the subject site, commended the proprietors and urged support of the permit. **Joshua Menghini, 27095 Jarvis Road, Bonita Springs**, stated that he is the host for this restaurant, and, as such, he has either been asked to park patrons' vehicles or for direction to the valet drop-off point; he therefore also urged approval for the convenience of customers. **Susan Canipelle, 2847 Coco Lakes Drive**, as a former resident and Third Street South business owner, noted that she remains a loyal patron of this establishment and urged approval.

Council Member Sulick stated that while she appreciated the support this establishment has received, a balance must be maintained throughout this commercial district. She had not supported the petition the prior year nor could she support the current request, she said. Council Member Price disagreed, saying that the petitioners had demonstrated their cooperative intent and commended them for their success.

The route of vehicles from the drop-off / pick-up point to the rear parking lot was then discussed as cited in Mr. Archibald's January 14 memorandum (Attachment 12).

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**MOTION** by Price to **APPROVE RESOLUTION 11-12830** amending as follows: **Special Conditions (#3): "...circulation to those determined by the permittee to be safe and in compliance with all traffic laws and the City staff approvals...exhibits and shall confine..."**. This motion was seconded by Sorey and carried 6-1, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-no, Barnett-yes).

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Recess: 12:13 p.m. to 12:34 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

**ORDINANCE (First Reading)..... ITEM 13**  
**AN ORDINANCE RELATING TO SIGNS; AMENDING SECTIONS 4-34; 4-35; SUBSECTION (d)(3) OF SECTION 16-285; SUBSECTIONS (b) AND (c)(3) AND (4) OF SECTION 46-32; SUBSECTION (b) OF SECTION 46-39; SECTIONS 50-31; 50-32; 50-33; 50-34; 50-35; 50-37; 50-38; 50-39; AND 50-40; PROVIDING FOR REPEAL OF SECTION 50-41; TO AMEND THE PROVISIONS FOR PROHIBITED VEHICLES WITH SIGNS AND TO ADD A PROHIBITION AGAINST CERTAIN VESSELS WITH SIGNS; AMENDING DEFINITIONS OF THE CODE OF ORDINANCES, CITY OF NAPLES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (12:32 p.m.). He then provided a brief overview of revisions within the ordinance made in response to the 11<sup>th</sup> Circuit Court of Appeals case, Solantic, LLC v. City of Neptune Beach, which found many sign ordinances had been based upon content or the individual installing the sign. Mr. Pritt stressed that the City lies within the jurisdiction of the 11<sup>th</sup> Circuit Court and therefore must comply with its findings. Additionally, Council had most recently reviewed the draft of the proposed amendments during its February 16, 2010, workshop and had recommended that staff present the draft to the Planning Advisory Board (PAB); recommending the inclusion of a prohibition of pole signs. The PAB approved the draft currently before Council, he added. Planner Adam Benigni pointed out that following the aforementioned PAB review, several definitions were added and/or clarified, and billboards are now specifically prohibited.

Council Member Price took issue with the scope and magnitude of the amendments, receiving clarification that Council had in fact directed staff to proceed. Mr. Benigni also explained that the majority of the content of the current draft had previously been presented to Council, and Mr. Pritt pointed out that the draft appears so voluminous due to underlining and strikethroughs necessary to relocate language to other sections within the Code of Ordinances, but not to remove them completely. Mr. Pritt advised that provisions addressing vehicular signage, including boats and sign-walkers, had been included for Council's consideration, reiterating that the Solantic case was a factor in the number of amendments, especially with regard to political signage. Mr. Price objected to the sign-walker language, saying that he recalled no complaints in that regard, as well as questioning additional limitations on the allowable time for uninterrupted parking of vehicles with commercial signage (Section 30-37(9), (10), and (12)); such elements should be addressed by common sense, not additional legislation, he added.

During discussion which followed, various comments and/or concerns were noted by Council, those receiving definitive explanations or those which were amended are reflected below:

- Page 8 - : definition of freestanding sign: "...sign must be covered for the entire..." (consensus to amend as reflected)
- Page 24 – Section 50-37(4) "Balloons, inflatables, and ..." (consensus to amend as reflected);
- Page 31 – Section 50-39(b)(2)(d) Color. Signs may include color (Mr. Pritt noted that private covenants within residential neighborhoods would trump this provision.);

**City Council Regular Meeting – January 19, 2011 – 8:27 a.m.**

- Page 32 – Section 50-39(c)(3) – Mr. Pritt explained that real estate signage was not addressed except for placement.
- Page 24: Section 50-37(9) agreed with amended language and Mr. Pritt explained that should parking in front of a business be necessary, the signage could in fact be covered during that time. Staff added that Page 11 reflected the definition of vehicular signage wherein parking of the vehicle was addressed;
- Page 13 – Section 50-33(5) – consensus to delete;
- Page 13 – Section 50-34(a) – staff explained that the Code had been revised several years ago to reflect City Manager (or designee) rather than other titles;
- Page 14 – Section 50-34(c) – staff explained that this section had been deleted due to difficulty in enforcement as it addressed landlord lease restrictions; property owners now sign-off on permits agreeing to whatever signage had been proposed in the application;
- Page 33 – Section 50-41 reflected with strikethrough – staff explained that it had merely cited another section containing signage requirements for charter boats and water taxis, the actual provisions remain in the Code;
- Page 12 – definition of window signs – staff indicated that this had not been amended;
- Page 20 – Section 50-35(a)(4)) – addresses the permitted location of window signs which had not been amended either; and
- Pages 28 to 32 – Section 50-39(a)(2)(a), (b)(2)(a) and (c) – address political signs – consensus that limitation as to the number allowed and durational requirements (Sec. 50-39(c)(5)) be removed.

**Public Comment:** (1:45 p.m.) **Ellie Krier, representing the Naples Area Board of Realtors,** received clarification of several unchanged sections of the subject ordinance and requested a 90-day moratorium on enforcement of the window sign prohibition; she also expressed concern with the upcoming review of the sign regulations applicable within the Fifth Avenue South Special Overlay District, requesting that she be allowed to return with recommendations and examples of alternative window displays with regard to real estate.

**Recess: 1:55 p.m. to 2:06 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened and consideration of Item 13 continued.**

City Manager William Moss summarized that staff's intent had been to follow Council's prior direction with amending the City's sign ordinance to conform to the findings of the above referenced Solantic case as well as making the Code more easily enforceable; no substantial changes would be seen around the City as a result of the proposed amendments, he added.

***MOTION by Sulick to APPROVE THIS ORDINANCE at First Reading with amendments per Council discussion; seconded by Saad and carried 6-1, all members present and voting (Finlay-yes, Saad-yes, Sorey-yes, Sulick-yes, Heitmann-yes, Price-no, Barnett-yes). (Second Reading to occur 02/16/11.)***

A brief discussion of the proposed review of the Fifth Avenue South Special Overlay District signage ordinance occurred wherein Planning Director Robin Singer pointed out that the Planning Advisory Board (PAB) would review the draft in February and that it would be brought before Council in March or April. No action was taken on Ms. Krier's request for a 90-day moratorium on enforcement of the ban against window signs. Council Member Price reiterated his opposition to the lengthy draft ordinance, saying that he believed it creates more restrictions and does not improve the character of the community.

**RESOLUTION 11-12831 ..... ITEM 14**  
**A RESOLUTION ACCEPTING A STATE OF FLORIDA GRANT ASSISTANCE AGREEMENT BETWEEN THE STATE OF FLORIDA, EXECUTIVE OFFICE OF THE GOVERNOR, FLORIDA ENERGY AND CLIMATE COMMISSION AND THE CITY OF NAPLES UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT FOR UNITED STATES DEPARTMENT OF ENERGY AWARDS; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT;**

**AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (2:17 p.m.). Natural Resources Manager Michael Bauer commended the City's Grant Coordinator Gregg Givens for his efforts in receipt of the grant, which will provide funding for education with regard to altering behavior that will result in saving energy and money, as well as implementing a "green" business program involving voluntary reduction in energy usage.

**Public Comment:** (2:18 p.m.) None.

**MOTION by Barnett to APPROVE RESOLUTION 11-12831 as submitted; seconded by Price and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).**

It is noted for the record that Items 15-a and 15-b were read and considered concurrently.

**ORDINANCE 11-12832..... ITEM 15-a**  
**AN ORDINANCE AMENDING SECTION 40-32 OF THE CODE OF ORDINANCES, CITY OF NAPLES, PERTAINING TO COMMERCIAL AND SIGHTSEEING BUSES, ESTABLISHING A REQUIREMENT FOR FRANCHISE AGREEMENTS AND FRANCHISE FEES, PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.**

**RESOLUTION 11-12833 ..... ITEM 15-b**  
**A RESOLUTION ADDING SECTION 40-32(b) TO APPENDIX A, FEES AND CHARGES SCHEDULE, OF THE CODE OF ORDINANCES, CITY OF NAPLES, FOR THE PURPOSE OF ESTABLISHING A FRANCHISE FEE; AND PROVIDING AN EFFECTIVE DATE.** Titles read by City Attorney Robert Pritt (2:19 p.m.).

**Public Comment:** (2:20 p.m.) None.

**MOTION by Price to ADOPT ORDINANCE 11-12832 as submitted; seconded by Finlay and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).**

**MOTION by Saad to APPROVE RESOLUTION 11-12833 as submitted; seconded by Finlay and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).**

**RESOLUTION 11-12834 ..... ITEM 16-a**  
**A RESOLUTION APPOINTING ONE MEMBER TO THE CODE ENFORCEMENT BOARD FOR A THREE-YEAR TERM COMMENCING JANUARY 19, 2011, AND EXPIRING JANUARY 18, 2014; WAIVING THE TERM LIMIT REQUIREMENT PURSUANT TO SECTION 2-403 OF THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (2:21 p.m.).

**Public Comment:** 2:21 p.m.) None.

**MOTION by Barnett APPROVING RESOLUTION 11-12834 APPOINTING JOSEPH DONAHUE unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).**

**RESOLUTION 11-12835 ..... ITEM 16-b(1)**  
**A RESOLUTION APPOINTING ONE ALTERNATE TO THE CODE ENFORCEMENT BOARD FOR A THREE-YEAR TERM COMMENCING JANUARY 19, 2011, AND EXPIRING JANUARY 18, 2014; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (2:21 p.m.).

**Public Comment:** (2:21 p.m.) None.

**MOTION by Barnett to APPROVE RESOLUTION 11-12835 APPOINTING ANNABEL DREW unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).**

**RESOLUTION (no action required / see Item 15-a above).....ITEM 16-b(2)  
A RESOLUTION APPOINTING ONE MEMBER TO THE CODE ENFORCEMENT BOARD FOR A THREE-YEAR TERM COMMENCING JANUARY 19, 2011, AND EXPIRING JANUARY 18, 2014; AND PROVIDING AN EFFECTIVE DATE. Title not Read.**

**RESOLUTION 11-12836 ..... ITEM 16-c  
A RESOLUTION APPOINTING ONE MEMBER TO THE CARVER FINANCE BOARD OF DIRECTORS FOR A THREE-YEAR TERM COMMENCING JANUARY 19, 2011, AND EXPIRING JANUARY 18, 2014; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (2:21 p.m.).**

**Public Comment:** 2:21 p.m.) None.

**MOTION by Saad to APPROVE RESOLUTION 11-12836 APPOINTING ANNABEL DREW unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).**

**FIFTH AVENUE SOUTH HOLIDAY LIGHTING (Added item / see Item 4 above) ..... ITEM 17  
CONSIDERATION OF A REQUEST TO RESCIND PRIOR COUNCIL DECISION TO REQUIRE REMOVAL OF HOLIDAY LIGHTING IN THE FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT. (2:22 p.m.)** City Manager William Moss briefly summarized the prior day's discussion saying that temporary outdoor holiday lighting is only allowed via a permit. A proposed text amendment would allow for limited holiday lighting from November 15 to January 15, he said, noting that a request had been brought forward also during that discussion suggesting Council lift its moratorium against temporary lighting until such time as the newly formed FASBID (Fifth Avenue South Business Improvement District) could develop recommendations in this regard. Currently, staff is nevertheless following Council direction that holiday lighting was to have been removed by January 17, and a letter to this effect was sent to affected businesses. Mayor Barnett further clarified that the holiday lighting had been thoroughly discussed during the prior discussion and Council had been clear that the temporary lighting must be removed so that the effects of the newly installed street lighting could be evaluated. Council had also maintained that should temporary lighting be desired, permits should be applied for, he said.

Council Member Sulick reported her finding that just seven businesses on Fifth Avenue South had not removed holiday lighting. She took issue with Council subsequently being asked not to enforce sections of the Code. In support of allowing temporary lighting to remain, Council Member Finlay pointed out that the winter tourist season is currently at its peak with a longer period of darkness; he also noted that some of the remaining lights had been in place for several years. Therefore, these factors should all be taken into consideration, Mr. Finlay said, and the City should allow the FASBID to form its promised taskforce to address lighting.

Vice Mayor Sorey agreed with Council Member Sulick, that ample notice had been given and the majority of violators had complied; the question therefore remains as to whether exceptions should be made. In response to Council Member Saad, City Attorney Robert Pritt confirmed that the temporary lighting is considered a sign and Planning Director Robin Singer further explained that a 45-day permit for holiday lighting is provided for under Chapter 46 of the Code of Ordinances, and the Land Development Code (LDC) contains a prohibition of temporary lighting beyond a 90-day period. Mr. Pritt then indicated that Code amendments are



nevertheless in order. Mr. Saad advocated that the remaining lights be allowed for the requested 90-days; the issue of multi-colored lights could be addressed by the FASBID taskforce. Council Member Sulick maintained that the remaining temporary lighting is not compatible with the intended ambiance of Fifth Avenue South; also, the FASBID should be provided a relatively clean slate to begin their tasks. Council Member Heitmann stressed that this discussion would have been appropriate at the onset and that temporary lighting should have been allowed to remain until the end of tourist season. Council previously reached a decision which should be enforced, she concluded.

**Public Comment:** (2:46 p.m.) **Lou Vlasho, Fifth Street South restaurateur**, stated that 15, not 7, businesses still displayed lighting. Not only had the new lighting and landscaping enhanced the appearance of the street, he said, the illumination provided by the temporary lights is also seen as a positive factor. The FASBID is just beginning its endeavors, he stated, and it should be allowed to work with staff in amending the Code, urging that the 90-day reprieve be granted to April 29, the assumed end of tourist season. **Skip Quillen, 857 Fifth Avenue South**, a prior member of the City's lighting committee, reminded Council that Urban Planning Consultant Robert Gibbs maintained that low level lighting would be the most important to the ambiance of the street and that the twinkling holiday lighting adds to this impact. With the current economic situation, he urged that the FASBID be allowed to communicate with the merchants along Fifth Avenue South and develop a reasonable philosophy.

City Attorney Pritt pointed out that Council could not give the direction that the Code not be enforced; the Code must be amended to reflect such intent. Therefore he cautioned that such a vote not be taken and the consensus reflected below was forthcoming.

***Consensus for FASBID to bring a petition for approval of temporary lighting at 02/02/11 regular meeting and FASBID to work with staff on ordinance amendments (Heitmann, Sulick dissenting)***

**DISCUSSION OF BLUE RIBBON EFFICIENCY COMMITTEE (Added item)..... ITEM 18** (3:15 p.m.) Council Member Price explained that this proposal, originally brought forward by Council Member Finlay, was based upon the fact that employee salaries are 75% of the budget and with current economics; the compensation of the top paid 20 employees should be compared with other similar municipalities. In addition, a comparison to similar positions in the private sector should be included, he said, and then the committee could develop criteria for this comparison and bring forward suggestions in an effort to address budgetary shortfalls for the coming fiscal year. Vice Mayor Sorey noted that such a comparison had been provided by staff the prior year and wage and salary assessments are very specific and involve a specialized process. Should no member of the community have such human resource skills, then perhaps funds should be expended to have such a study done, he stated. He further recommended that staff seek an estimate of the cost of such a study for Council's consideration, noting that the results of an outside provider would be viewed as more fair by employees; Council Member Sulick agreed, especially with regard to the comparisons being specific to each position. Council Member Saad indicated that all employee compensation should be included.

City Manager William Moss agreed that the study should be professionally done and include all positions, reporting that an in-depth assessment had been performed in 1997, with additional information gathered in 2006. Based upon workshop discussion the prior day, staff has begun developing the RFQ (requirements for qualifications), he said. Council Member Price concluded that community involvement is essential and suggested that Council Members submit names of those they believe to be qualified for the committee to the City Manager for consideration.

**Public Comment:** (3:31 p.m.) None.

***Consensus for staff to pursue the cost of professional salary/benefit research services as well as Council Members determining the availability of volunteer citizens to perform either all or part of this function.***

**PUBLIC COMMENT .....**

(3:31 p.m.) None.

**CORRESPONDENCE AND COMMUNICATIONS.....**

(3:31 p.m.) Vice Mayor Sorey requested that staff research the request made during public comment above (see Item 5) regarding extending Sunday hours for service of alcoholic beverages by Paddy Murphy's Irish Pub and then present findings in a workshop discussion (consensus 5-2 / Sulick and Heitmann dissenting). He also noted the need for continued water conservation by the public as the dry season is quickly approaching. Vice Mayor Sorey further recommended that the NAA's (Naples Airport Authority's) environmental permit not be issued by the FAA (Federal Aviation Administration) until the pending displaced threshold issue (extension of runway 5/23) has been decided. It was the unanimous consensus of Council to request that the FAA withhold NAA environmental permit approval and also respond to this and prior correspondence from the City relative to the issue of preemption. Council Member Heitmann took issue with what she deemed Council ignoring a Code requirement with regard to temporary lighting (see Item 17 above), characterizing the behavior as political favoritism and occurring repeatedly; it must stop, she cautioned. Council Member Price commended Council's decision-making during recent years, suggesting that discussion be scheduled as to means by which the City could distinguish itself even more from other communities. Council Member Finlay noted that the Clam Bay navigation marker issue has resurfaced and that the Seagate neighborhood will be seeking protection of its interests with the City's assistance; a request had been received for involvement of the City's Natural Resources Manager, Michael Bauer, and that a meeting had been scheduled for that Friday evening, Vice Mayor Sorey added. Following a brief discussion of possible agenda items for the upcoming joint City/County meeting, consensus was reached that beach renourishment would be included. Council Member Saad stated that consideration of the displaced threshold issue (Naples Airport Authority/NAA utilization plan) should be scheduled and consensus was forthcoming for March 16, 1:00 pm, and that no survey would be taken as to community interest in commercial air service. Mayor Barnett commended Council for its teamwork with regard to decision-making.

**ADJOURN .....**

4:20 p.m.

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Bill Barnett, Mayor

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Tara A. Norman, City Clerk

Minutes prepared by:

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Vicki L. Smith, Technical Writing Specialist

Minutes Approved: 02/16/11

SUPPLEMENT  
#5-PARKER

**Alan L. Parker**  
**741 Third Street South**  
**Naples, FL 34102**

December 16, 2010

Mrs. Krystal Ritchie, PE  
Program Manager  
FAA Orlando ADO  
5950 Hazeltine National Drive, Suite 400  
Orlando, FL 32822

Dear Mrs. Ritchie:

At a Naples City Council Workshop meeting on Monday, December 13, 2011, and at other times, Naples Municipal Airport officials have stated that the maximum permitted takeoff weight at APF is “grandfathered” at 75,000 lbs. In view of APF’s plan to pave the displaced thresholds and thereby expand the takeoff length of runway 5/23 to 5,800 feet, it is important that we in the community understand the meaning and substance of “grandfathered”.

To this end, I would greatly appreciate your providing the following information and answers:

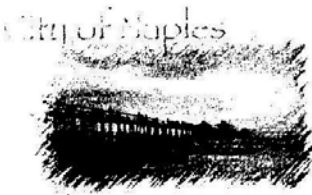
1. A copy of any documentation that “grandfathers” the maximum takeoff weight at APF at 75,000 lbs.
2. References to all regulations that set out the definition and administration of “grandfathered” in the context of aircraft takeoff weight limits.
3. If the displaced thresholds are paved and permitted to be used for takeoffs, would these changes to the runway length invalidate the “grandfathered” weight status; assuming that the “grandfathered” status exists and runway 5/23 is capable of sustaining regular use without runway damage by aircraft weighing at or above 120,000 lbs?
4. Referencing #3 above, if an air carrier were to request to use APF for aircraft weighing 110,000 lbs and APF were to deny that use based on the 75,000 lb “grandfathered” weight limit, would the FAA likely consider the denial as discriminatory?
5. Again assuming the 75,000 lb takeoff weight is “grandfathered” and the displaced thresholds are paved and the existing 5,290/5,000 feet of runway 5/23 useable for takeoffs is rated at a repeatable use weight of 120,000 lbs or more, would APF be permitted to pave the displaced thresholds to a 75,000 lb weight standard in order to maintain the “grandfathered” weight limit?

If you would like to speak to me regarding this request, I can be reached by telephone at (239) 262-2204. My e-mail address is [alanl.parker@gmail.com](mailto:alanl.parker@gmail.com).

Sincerely,

**NAPLES CITY COUNCIL AGENDA MEMORANDUM****Regular Meeting Date:** January 19, 2011

Agenda Section:	Prepared By: Robin Singer, Director	
Regular	Date: December 21, 2010	Department: Planning
Agenda Item:	Legislative <input type="checkbox"/>	Quasi-Judicial <input checked="" type="checkbox"/>
7		
<b>SUBJECT:</b>		
Resolution approving Petition 10-SD7 for Plat Approval for the Oasis on the Gulf Subdivision in order to re-plate the existing fourteen platted lots, portions of two additional platted lots, and the adjacent vacated alleys into three platted lots with an access easement.		
<b>SUMMARY:</b>		
City Council is asked to consider a Resolution approving Petition 10-SD7 for Plat approval for the Oasis on the Gulf Subdivision, a replat of 14 existing platted lots and portions of two additional platted lots and the adjacent vacated alleys into 3 platted lots with an access easement for property located at 30 15 <sup>th</sup> Avenue South and 25 16 <sup>th</sup> Avenue South (320 feet by 250 feet of Gulf front property between 15 <sup>th</sup> and 16 <sup>th</sup> Avenues South) owned by La Playa Naples Investment, LLC. In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.		
<b>BACKGROUND:</b>		
The petitioner is requesting to replat the existing 14 lots and portions of adjacent lots and vacated alleys to create three new single family residential lots in the R1-10 and R1-15 zoning districts. The existing platted lots are approximately 33 feet in width. The existing property could be reconfigured into multiple lots along existing platted lot lines. The owners are requesting to create three lots measuring 100, 109.93 and 110.28 feet in width. The area of each platted lot will exceed the standards for the minimum area requirements in either zoning district. Access to the middle lot (Lot 2) will be by an access easement that will be improved on Lot 1, Lot 3 or both. There are many examples of landlocked parcels in the blocks fronting the Gulf of Mexico. Most are accessed through a platted easement or pre-existing platted alley from Gulf Shore Boulevard. Since Lot 2 has frontage on the Gulf of Mexico (formerly Gulf Street) is it not considered a flag lot.		
The Planning Advisory Board voted 7-0 to recommend approval at their December 8, 2010. On November 30, 2010 a total of 27 letters were mailed to all property owners located within 500 feet of the subject property. As of the date of this memo, one written response (attached) and several inquiries have been received. Both staff and the petitioner's agent responded to the request for more information.		
<b>File Reference:</b> Subdivision / Re-Plat Petition 10-SD7		
<b>Petitioner:</b> :La Playa Naples Investment, LLC		
<b>Agent:</b> John M. Passidomo, Esquire		
<b>Location:</b> 30 15 <sup>th</sup> Avenue South and 25 16 <sup>th</sup> Avenue South (320 feet by 250 feet of Gulf-front property between 15 <sup>th</sup> and 16 <sup>th</sup> Avenues South)		
<b>Zoning:</b> R1-10 and R1-15 Residence Districts		



**NAPLES CITY COUNCIL AGENDA MEMORANDUM**

**Regular Meeting Date:** January 19, 2011

**Page Two**

Agenda Item:

7

**RECOMMENDED ACTION:**

Adopt a Resolution, subject to the conditions listed in the Resolution, approving Petition 10-SD7 for Plat Approval for the Oasis on the Gulf Subdivision, a replat of 14 existing platted lots and portions of two additional platted lots and the adjacent vacated alleys into 3 platted lots with an access easement for property located at 30 15<sup>th</sup> Avenue South and 25 16<sup>th</sup> Avenue, owned by La Playa Naples Investment, LLC (320 feet by 250 feet of Gulf-front property located between 15<sup>th</sup> and 16<sup>th</sup> Avenues South).

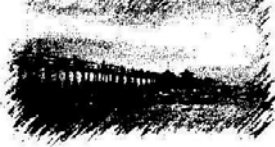
Reviewed by Department Director  
Robin Singer

Reviewed by Finance  
N/A

Reviewed by City Manager  
A. William Moss

City Council Action:

City of Naples

**NAPLES CITY COUNCIL AGENDA MEMORANDUM****Regular Meeting Date: January 19, 2011**

Agenda Section:	Prepared By: Erica J. Goodwin, Planner II	
Regular	Date: December 21, 2010	Department: Planning
Agenda Item:	Legislative <input type="checkbox"/>	Quasi-Judicial <input checked="" type="checkbox"/>
8		
<b>SUBJECT:</b>		
Resolution determining Expansion of a Nonconformity Petition 10-NC4 to allow the vertical and horizontal expansion and renovation of a main house and guest house along the existing nonconforming setbacks and to allow the elevation of the structures to meet minimum floodplain criteria for property located at 295 2 <sup>nd</sup> Avenue South.		
<b>SUMMARY:</b>		
City Council is asked to consider a Resolution determining Petition 10-NC4 for the expansion of a nonconformity in the R3T-12 District, to allow for the vertical and horizontal expansion and renovation of a main house and guest house along the existing nonconforming setbacks, and to allow the guest house to be elevated 20 inches and the main house one inch to meet minimum floodplain criteria for the property located at 295 2 <sup>nd</sup> Avenue South, owned by Kristen Williams. In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.		
<b>BACKGROUND:</b>		
<p>The main house and guest house on property located at 295 2<sup>nd</sup> Avenue South were constructed in 1935. At the time that the R3T-12 District was created in 1977, the house and guest house were approximately 42 years old. Section 46-35 of the Code of Ordinances defines nonconformity as "a lot, structure or use of land, or any combination thereof, which was lawful before government action but no longer meets the regulations contained in this land development code because of said government action." The main house and guest house on the property are considered nonconforming and expansion of the structures requires approval of an Expansion of a Nonconformity Petition.</p> <p>The owner is requesting to expand the existing 75-year old structures to make them more livable by today's standards, while preserving and restoring their historic character. This property is located in the R3T-12 District, in which the required front yard setback is 25 feet, the required side yard setback is 7.5 feet for a one story building and 10 feet for a two story building, and the required rear yard setback is 20 feet, in order to allow for the vertical and horizontal expansion and renovation of the existing nonconforming main house and guest house. The existing structures are currently located (for the main house) approximately 18 feet 10 inches from the east / front property line, 24 feet 9 inches from the south / front property line and (for the guest house) 5 inches from the west / side property line and 4 feet 10 inches from the north / rear property line. The proposed expansion will maintain the existing setbacks and will include the elevation of the guest house by 20 inches and the main house by one inch to meet minimum floodplain criteria.</p>		

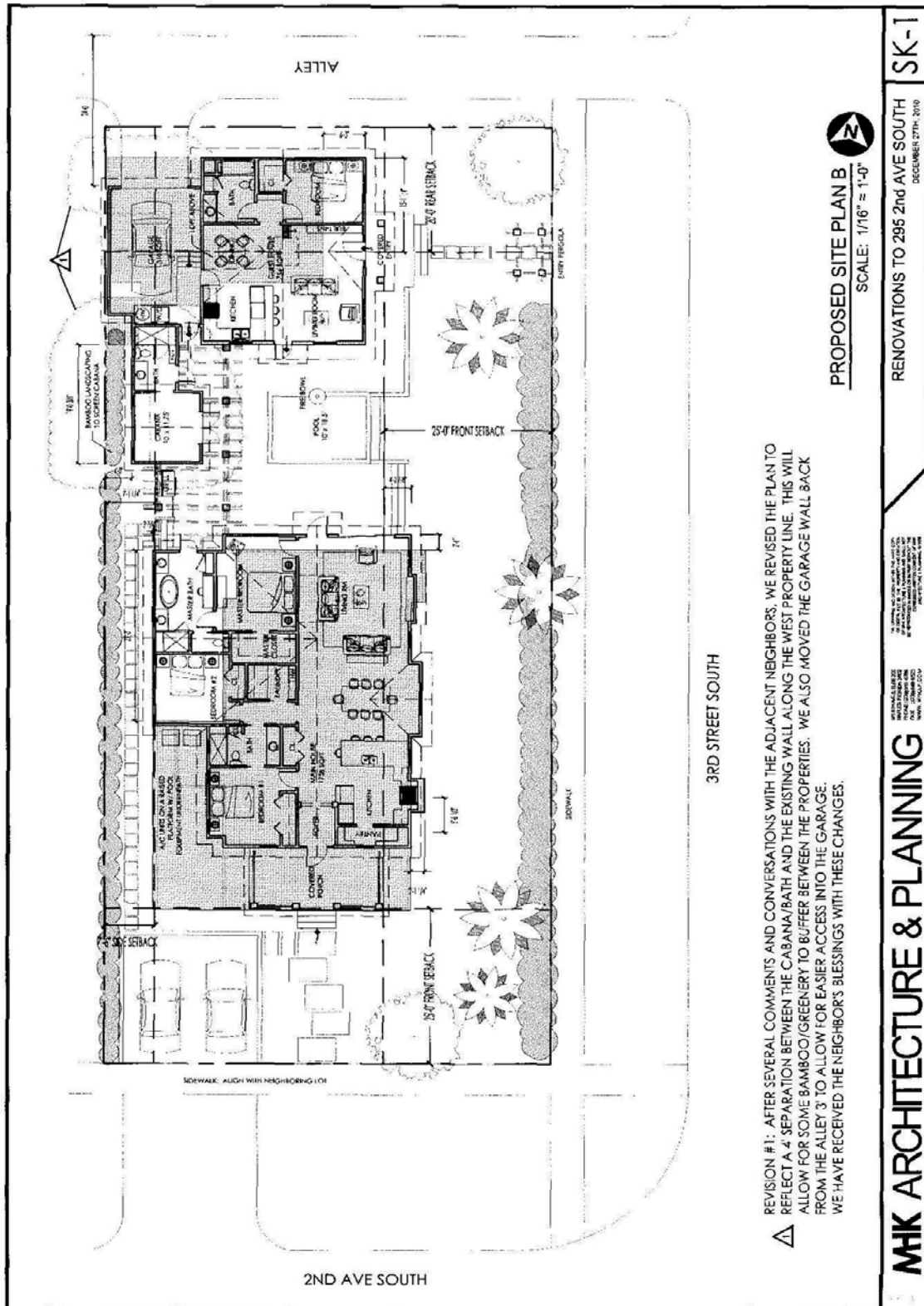


**NAPLES CITY COUNCIL AGENDA MEMORANDUM**

**Regular Meeting Date:** January 19, 2011

**Page Two**

Agenda Item:		
8		
<p><b>File Reference:</b> Expansion of a Nonconformity Petition 10-NC4  <b>Owner / Petitioner:</b> Kristen Williams  <b>Agent:</b> Matthew Kragh, AIA, MHK Architecture &amp; Planning  <b>Location:</b> 295 2<sup>nd</sup> Avenue South  <b>Zoning:</b> R3T-12, Multifamily District</p> <p>On December 8, 2010, the Planning Advisory Board voted 7 - 0 to recommend approval of Expansion of a Nonconformity Petition 10-NC4 to City Council, pursuant to the following condition:</p> <ol style="list-style-type: none"> <li>1. The petitioner will revise the plans to show the addition of sidewalks along 2<sup>nd</sup> Avenue South and 3<sup>rd</sup> Street South.</li> </ol> <p>The revised plans submitted for Council review reflect the inclusion of sidewalks along 2<sup>nd</sup> Avenue South and 3<sup>rd</sup> Street South.</p> <p><b>PUBLIC NOTICE/COMMENT:</b>  On November 29, 2010, and again on December 13, 2010, a total of 140 letters were mailed to all property owners located within 500 feet of the subject property. As of the date of this report, staff has received letters from neighbors Mary Morris and Francis A. Engelhardt (copies attached) and a phone call from neighbor Rick McNabb in objection to the project.</p> <p>Subsequent to the PAB meeting, the petitioner's agent met with the neighbors and Planning staff to discuss the concerns expressed regarding the proposed project. As a product of this meeting and to accommodate the neighbors' concerns, the petitioner has made slight modifications to the plans. While the design differs slightly from the plans reviewed by PAB, Planning staff confirmed that the proposed changes do not increase the level of nonconformity of the structures and has included them in the submittal for City Council review.</p> <p><b>RECOMMENDED ACTION:</b>  Adopt a Resolution approving Petition 10-NC4 for the expansion of a nonconformity in the R3T-12 District, to allow for the vertical and horizontal expansion and renovation of a main house and guest house along the existing nonconforming setbacks, and to allow the guest house to be elevated 20 inches and the main house one inch to meet minimum floodplain criteria, for property located at 295 2<sup>nd</sup> Avenue South, owned by Kristen Williams.</p>		
Reviewed by Department Director Robin Singer	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss
City Council Action:		





City of Naples

**NAPLES CITY COUNCIL AGENDA MEMORANDUM****Regular Meeting Date: January 19, 2011**

Agenda Section:	Prepared By: Adam A. Benigni, Senior Planner	
Regular	Date: December 21, 2010	Department: Planning
Agenda Item:	Legislative <input type="checkbox"/>	Quasi-Judicial <input checked="" type="checkbox"/>
9		
<b>SUBJECT:</b>		
Resolution determining Variance Petition 10-V12 in order to allow a pool to encroach into the front yard setback for the property located at 287 11 <sup>th</sup> Avenue South.		
<b>SUMMARY:</b>		
City Council is asked to consider a Resolution determining a variance from Section 56-45 (b) of the Code of Ordinances in order to allow a pool to encroach 6 feet - 3 5/8 inches into the required 25 foot front yard (east) setback in the R3-12 Multifamily District for property located at 287 11 <sup>th</sup> Avenue South and owned by Kristen Williams.		
<b>BACKGROUND:</b>		
On October 18, 2010, City Council approved Resolution 10-12722 granting Nonconformity Petition 10-NC2 which allowed the expansion and renovation of the main house and guest house along the nonconforming setbacks for property located at 287 11 <sup>th</sup> Avenue South. That plan showed a proposed swimming pool located between the main house and guest house but completely meeting the R3-12 District setbacks. The petitioner now wishes to modify the location of the pool due to aesthetic concerns. The pool is now proposed to encroach 6 feet - 3 5/8 inches into the required 25 foot front yard (east) setback.		
Staff is recommending denial of the variance, based on the Petition not meeting General Variance Criteria 2 and Specific Variance Criteria 1, 3, 4, 6, 7 and 9. On December 8, 2010 the Planning Advisory Board voted 5 - 1 to recommend approval of the variance.		
<b>File Reference:</b> Variance Petition 10-V12		
<b>Petitioner / Owner:</b> Kristen Williams		
<b>Agent:</b> Matthew Kragh, AIA, MHK Architecture & Planning		
<b>Location:</b> 287 11 <sup>th</sup> Avenue South		
<b>Zoning:</b> R3-12 Multifamily District		
<b>PUBLIC NOTICE:</b>		
On November 19, 2010 a total of 111 letters were mailed to all property owners located within 500 feet of the subject property. As of the date of this report, there has been no response to the mailing.		
<b>RECOMMENDED ACTION:</b>		
The Planning Department recommends denial of Variance Petition 10-V12, based on the Petition not meeting General Variance Criteria 2 and Specific Variance Criteria 1, 3, 4, 6, 7 and 9.		
Reviewed by Department Director	Reviewed by Finance	Reviewed by City Manager
Robin D. Singer	N/A	A. William Moss
City Council Action:		

**(1) General.**

- ***If, upon consideration of the variance criteria set out in this subsection and (c)(2) below, it is determined that the case for approving a variance clearly outweighs the case for denial, the variance may be approved, providing that:***

**1. *The variance does not permit the establishment or enlargement of any use or structure devoted to a use which is not permitted in the district in which the variance is requested.***

- Pools are permitted accessory structures in R3-12

**2. *The variance will be consistent with the comprehensive plan.***

- The variance is consistent with the comprehensive plan. Pools are allowed as accessory structures. The comprehensive plan does not address pools; however, only the density of mid-level density multi-family.

**(2) Specific.**

- ***Prior to approving, approving with conditions or denying a variance, city council shall consider and determine, based upon substantial competent evidence, the following criteria:***

**1. *Whether the plight of the applicant is due to unique circumstances not created by the applicant, an agent of the applicant or a predecessor in title of the applicant.***

- The plight of the applicant is not created by the applicant; however, the plight was created by the zoning regulations 45 years after the principle structures were constructed.

**2. *Whether special conditions or circumstances exist which are peculiar to the land or structure involved, and which are not applicable to other lands or structures in the same neighborhood or district.***

- Special circumstances were created by the zoning regulations 45 years after the principle structures were constructed.

**3. *Whether the failure to grant the variance would result in unnecessary and undue hardship to the property.***

- A hardship would be created by failure to grant the variance. The hardship would create asymmetry on a historical symmetrical layout.

**4. *Whether the failure to grant the variance would deprive the owner of the reasonable use of the property.***

- The owner would be deprived of upholding the aesthetic character of historic nature of the property.

**5. *Whether the variance will promote, or will not be inimical to, the health, safety and welfare of the community.***

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- The variance will not be inimical to the health, safety and welfare of the community. The community will never know its there. It is concealed by a large existing ficus barrier.

**6. Whether the variance will be otherwise consistent with and in harmony with the general intent and purpose of this land development code.**

- Staff: The variance would undermine the general intent of the land development code, which requires pools to be located entirely within the building envelope in the R3-12 multifamily district.
- Note: The new zoning only leaves approximately 15' of width for a building envelope which is off center of the existing structures.

**7. Whether the variance is the most practical or logical solution to the need for relaxation of the literal requirements of this land development code.**

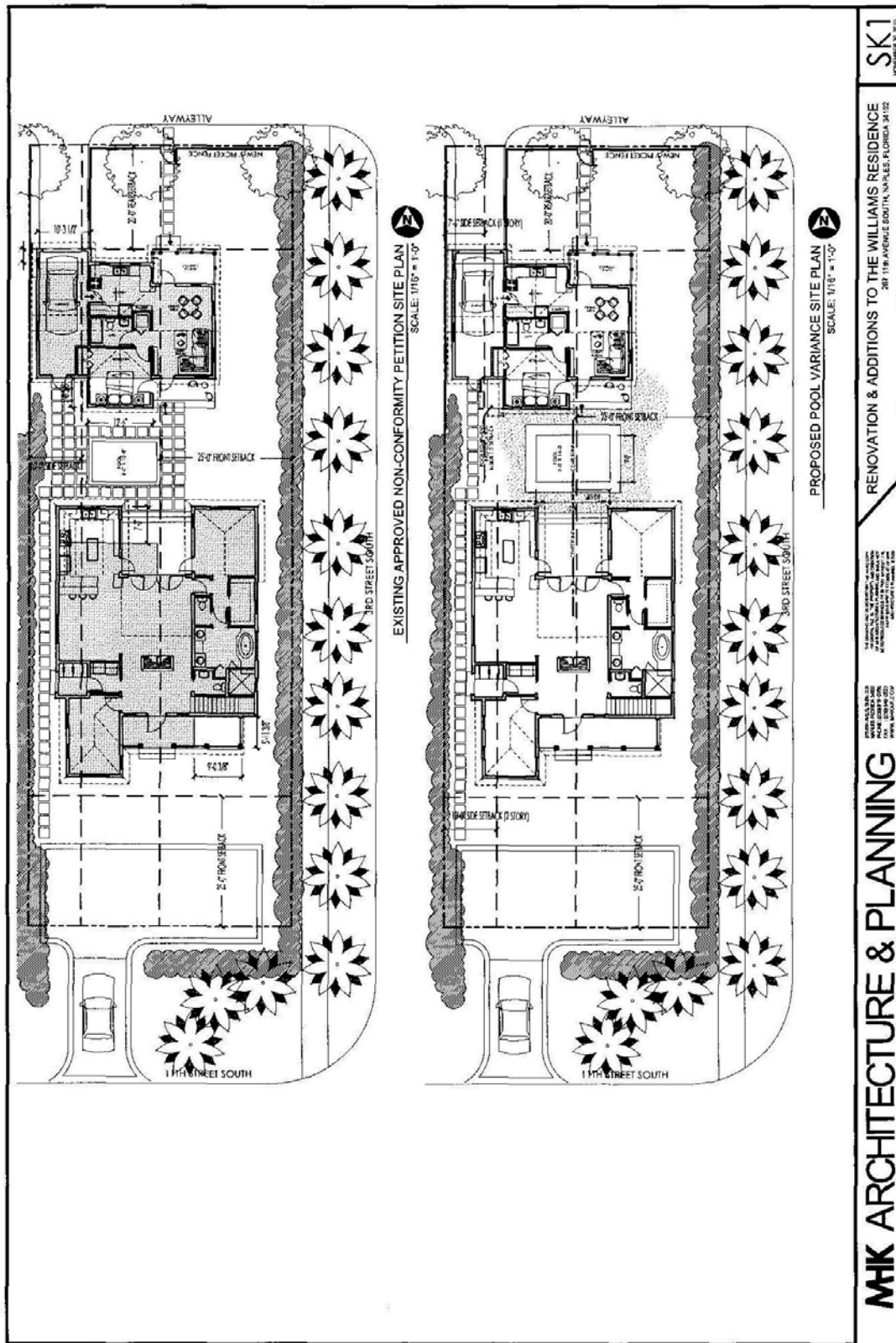
- The owner has taken great care and great expense in salvaging the existing contributing historic structures. A variance to center the small pool is a practical and logical solution to the requirements.

**8. Whether the variance will be injurious to the surrounding neighborhood or adjacent properties.**

- The variance will not be injurious to the surrounding neighborhood. The community will never know its there. It is concealed by a large existing ficus barrier.

**9. Whether the construction resulting from the variance will be compatible in character and scale with the surrounding neighborhood, preserve natural resources, and preserve historic structures by maintaining the architectural character of the original building in keeping with the period in which it was built.**

1. The construction resulting from the variance will preserve historic structures by maintaining the architectural character of the existing buildings.



**NAPLES CITY COUNCIL AGENDA MEMORANDUM****Regular Meeting Date:** January 19, 2011

Agenda Section:	Prepared By: Robin Singer, Director	
Regular	Date: December 21, 2010	Department: Planning
Agenda Item:	Legislative <input type="checkbox"/>	Quasi-Judicial <input checked="" type="checkbox"/>
10		
<b>SUBJECT:</b>		
Resolution approving Site Plan with Deviations Petition 10-SPD4, to allow a new municipal aquatic center to include a pool, two structures and the surrounding pool fence in place of the existing municipal pool located in River Park at 451 11 <sup>th</sup> Street North.		
<b>SUMMARY:</b>		
City Council is asked to consider a Resolution approving Site Plan with Deviations Petition 10-SPD4, to allow a new municipal aquatic center to include a pool and two structures totaling 3,040 square feet to be located 6 feet from the east property line where 25 feet is required, 6 feet from the south property line where 10 feet is required and 19 feet 4 inches from the west property line where 25 feet is required, to allow the pool 6 feet from the west property line where 25 feet is required and to allow the surrounding pool fence and wall to be 8 feet above the crown of the road in place of the existing municipal pool located in River Park at 451 11 <sup>th</sup> Street North. In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.		
<b>BACKGROUND:</b>		
This petition will allow for the construction of a new aquatic center to replace the existing River Park Pool. It is located adjacent to the River Park Community Center and basketball pavilion. The facility was configured to maximize the interior space on the property for the pool and deck area. The buildings were pushed to the perimeter of the site while maintaining the required 6 foot landscape buffer. The surrounding pool fence will be constructed of metal picket or chain link to provide visibility but will be at a height to also provide safety and security.		
After several public meetings, City Council chose a site layout and directed staff to move forward on this project on October 18, 2010. The Design Review Board granted preliminary approval of Petition 10-DRB23 on November 24, 2010. The Planning Advisory Board voted 4-3 to recommend approval of 10-SPD4 subject to conditions. Among the dissenting votes the members were at odds with the fact that the Board was not involved in the planning of the aquatic center at an earlier stage in the process.		
On November 18, 2010, a total of 81 letters were mailed to all property owners located within 500 feet of the subject property. No written responses were received.		
If approved, this petition will remain valid for 48 months. Provided the setbacks are not further reduced and the fence height is not increased, the design of the structures may be changed without returning to City Council. Final Design Review will be required prior to permitting.		
<b>File Reference:</b> Site Plan with Deviations Petition 10-SPD4		
<b>Petitioner:</b> City of Naples		
<b>Agent:</b> Borrelli & Partners		
<b>Location:</b> 451 11 <sup>th</sup> Street North		
<b>Zoning:</b> PS Public Service		



**NAPLES CITY COUNCIL AGENDA MEMORANDUM**

**Regular Meeting Date:** January 19, 2011

**Page Two**

Agenda Item:

10

**RECOMMENDED ACTION:**

Adopt a Resolution, subject to the conditions listed in the resolution, approving Site Plan with Deviations Petition 10-SPD4 to allow a new municipal aquatic Center to include a pool and two structures totaling 3,040 square feet to be located 6 feet from the east property line where 25 feet is required, 6 feet from the south property line where 10 feet is required and 19 feet 4 inches from the west property line where 25 feet is required, to allow the pool 6 feet from the west property line where 25 feet is required and to allow the surrounding pool fence and wall to be 8 feet above the crown of the road in place of the existing municipal pool, owned by the City of Naples, located in River Park at 451 11<sup>th</sup> Street North.

Reviewed by Department Director  
Robin Singer

Reviewed by Finance  
N/A

Reviewed by City Manager  
A. William Moss

City Council Action:



City of Naples

**NAPLES CITY COUNCIL AGENDA MEMORANDUM****Regular Meeting Date: January 19, 2011**

Agenda Section:	Prepared By: George Archibald, Traffic Engineer	
Regular	Date: December 20, 2010	Department: Streets and Stormwater
Agenda Item:	Legislative <input checked="" type="checkbox"/>	Quasi-Judicial <input type="checkbox"/>
11		
<b>SUBJECT:</b>		
Resolution approving Right-of-Way Permit Application #2010-090 submitted by Bleu Provence Restaurant, 1234 8 <sup>th</sup> Street South, to provide valet service on 8 <sup>th</sup> Street South and valet parking on 13 <sup>th</sup> Avenue South Extension.		
<b>SUMMARY:</b>		
City Council is asked to consider adopting a Resolution approving Right-of-Way Permit Application #2010-090 submitted by Bleu Provence Restaurant, 1234 8 <sup>th</sup> Street South, to provide valet parking services on 8 <sup>th</sup> Street South and valet parking on 13 <sup>th</sup> Avenue South Extension and authorizing the City Manager to execute the Application.		
<b>BACKGROUND:</b>		
The Bleu Provence Restaurant is located on the south end of 8 <sup>th</sup> Street South with frontage on 12 <sup>th</sup> Avenue South, 8 <sup>th</sup> Street South and 13 <sup>th</sup> Avenue South Extension. Noting that 8 <sup>th</sup> Street South between 12 <sup>th</sup> Avenue South and 13 <sup>th</sup> Avenue South is one-way (southbound), and at the terminus point of the street, southbound traffic turns to the west on 13 <sup>th</sup> Avenue South Extension and typically exits out onto 7 <sup>th</sup> Street South. Due to the location, the existing traffic movements and the trip attraction of the restaurant during the early evening hours, the Bleu Provence has been providing a valet service on 8 <sup>th</sup> Street South with parking along the north side of 13 <sup>th</sup> Avenue South Extension. The valet service uses a portion of the public street and accordingly, the restaurant has applied for a permit to continue the valet service and valet parking. Since the valet parking at the terminus of 8 <sup>th</sup> Street South has the potential to improve the flow of traffic, staff is recommending approval with special conditions to include provisions for annual administrative review/renewal, termination with cause and without cause, site improvements, site maintenance and site operations. The permit application, site sketches and special conditions for permit approval are attached. These special conditions and improvements are recommended to off-set the use of public right-of-way for valet parking.		
<b>FUNDING SOURCE:</b>		
Site improvements and site maintenance associated with the valet parking shall be performed by and at the cost of the permittee. To subsidize the cost of an annual administrative review, upon yearly renewal, collection of a right-of-way permit fee is recommended as an additional condition of approval.		
<b>RECOMMENDED ACTION:</b>		
Adopt a Resolution approving Right-of-Way Permit Application #2010-090 for Bleu Provence Restaurant, 1234 8 <sup>th</sup> Street South, to provide valet service on 8 <sup>th</sup> Street South and valet parking on 13 <sup>th</sup> Avenue South Extension with special conditions as noted and authorize the City Manager to execute the Application.		
Reviewed by Department Director Ron Wallace	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss
City Council Action:		

#12 EXH B

## NEAROLITAN ENTERPRISES

January 14, 2011

Mayor Bill Barnett  
Members of Naples City Council  
Naples City Hall  
Naples, FL 34102

RE: City Council Meeting January 19, 2011  
Agenda Item 12  
Resolution approving Right of Way Permit for Valet Parking  
For Le Lafayette French Restaurant

Mayor Barnett and Members of Council:

We have reviewed Le Lafayette's Petition requesting a valet parking station on 13<sup>th</sup> Avenue South and respectfully request that the City Council deny this request. This is not just a request for valet parking. It is actually a request to modify the existing Conditional Use Zoning associated with this property and should be handled in the same manner as the original Conditional Use Petition, with appropriate notice and opportunity for comment by the neighboring property owners and merchants.

To review the history of this matter to this point:

On August 19, 2009, The Naples City Council passed Resolution 09-12486, which allowed Le Lafayette Restaurant to meet the parking requirement for the expansion of the restaurant through an unusual combination of agreements that includes the use of a mandatory valet parking plan at the rear of the building during all evening dining hours, a shared parking agreement with the adjacent property owner, and a limitation on the portion of the restaurant that could be open for the lunch hour when the shared parking was not available. The City Council further required that the owner of the adjacent property be required to guarantee that all leases would prohibit tenants in that building from being open after 5:00pm so that the shared parking would actually be available. The approved plan

255 13<sup>TH</sup> AVENUE SOUTH, SUITE 202  
NAPLES, FL 34102  
PHONE 239-261-8936  
FAX 239-261-2904

SUPPLEMENT  
# 2



did not provide a single new real parking space in spite of the expansion which more than doubled the size of the restaurant from 2,431 sq ft to 5,482 square feet.

At the time the Conditional Use Petition was under consideration, there was strong opposition from the residential neighbors to the original plan proposed by Le Lafayette for valet parking, specifically because of the traffic and parking issues, particularly on 13<sup>th</sup> Avenue South. Many of the commercial property owners in the Third Street Commercial District (particularly restaurant owners) and the Third Street Merchants Association shared the concerns of the residential owners regarding the traffic issues, but also expressed objection to allowing any restaurant to meet its parking requirement through such a complicated series of unenforceable and revocable agreements and conditions, when the other restaurants had been required to adhere precisely to the zoning requirements and provide real and very costly parking spaces for their patrons. Le Lafayette, in an effort to satisfy some of the concerns and secure approval of the Conditional Use Petition, modified their proposal and agreed to locate the valet parking pick up and drop off station in the rear parking lot instead of on 13th Avenue South.

Now the owners of Le Lafayette have returned to City Council asking for the exact valet parking station on 13<sup>th</sup> Avenue South that the owners specifically withdrew in the prior proceeding.

So what has happened in the intervening 18 months at Le Lafayette? We disagree with the staff report that says that the valet service has operated “without incidence.”

- 1) Le Lafayette completed the expansion of their restaurant, causing significant aggravation, and damage to the surrounding properties (including damage to our landscaping and parking lot), which required the intervention of the City to remedy.
- 2) Immediately upon completion of the expansion, Le Lafayette started valet service in front of the restaurant on 13<sup>th</sup> Avenue South, with a large sign in the middle of the street and occupying numerous parking spaces – all in direction contravention of the Conditional Use zoning. Again, the City Code enforcement staff had to intervene and force the owners to comply with their zoning requirements and move their valet operation to the rear of the property.
- 3) To the best of our knowledge, Le Lafayette has never closed off any portion of their restaurant for lunch service, as is clearly required.

**255 13<sup>TH</sup> AVENUE SOUTH, SUITE 202  
NAPLES, FL 34102  
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FAX 239-261-2904**

**2**

- 4) The nightly required valet parking service has not been provided on a daily basis, as was promised and agreed. It is sporadically provided, apparently when it suits the owners needs, and without the required notification to the City. There was no valet parking throughout any of the summer or fall months and only occasionally during the high season. As an example, in the last 7 days, valet parking was provided only 3 of the 7 evenings. Whether there is valet service or not, we have observed (as we predicted and expected), the patrons at Le Lafayette regularly use our parking lot, which is conveniently located adjacent to their property, utilizing spaces intended for patrons of our tenants. In spite of requests to relocate it, Le Lafayette has routinely placed an illegal A-Frame sign advertising the restaurant on the public right of way directly in front of our property and parking lot, which only encourages this behavior.

Under the Conditional Use zoning granted to Le Lafayette, valet parking was not a voluntary program, it was mandatory and required in order to meet their parking requirements. No other parking requirements in the Third Street Commercial District are seasonal, part-time or occasional requirements, provided based on the perceived need of a business – they are parking requirements that are permanent, run with the land, and apply 365 days per year. That is expensive, but the reality of doing business in this District. No one else is allowed to unilaterally decide how much parking they will provide, or what portion of their restaurant they claim to be using at any given moment, thus reducing their parking requirements. Allowing Lafayette to decide when they will provide valet parking based on their perceived needs would equate to allowing us to seasonally sublet (for a more profitable use) a good portion of the very expensive parking we have already built. We have to assume it was not the intention of City Council to allow Le Lafayette this privilege, thus economically favoring this merchant over all others. However, if it is the intention of City Council to make the parking requirements contained in the Code applicable only during selected peak times, we will happily apply for an immediate modification of the parking requirements for all our existing properties in the Third Street District, based on this policy. We only ask that everyone play by the same rules so that our existing restaurants are not economically disadvantaged.

Lafayette's Petition for valet parking that is under consideration today is simply an effort to modify the Conditional Use Zoning that was approved back in 2009. The

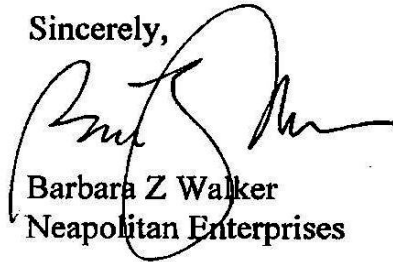
**255 13<sup>TH</sup> AVENUE SOUTH, SUITE 202  
NAPLES, FL 34102  
PHONE 239-261-8936  
FAX 239-261-2904**

3

SUPPLEMENT  
# 2

plan that was approved at that time may not have been exactly what Le Lafayette or the other property owners wanted, but City Council did approve that plan. Through the guise of a valet parking plan, the owners of Le Lafayette are now trying to renegotiate the portions of the original deal that they don't like, while keeping the portions they do like. If Council wishes to revisit the entire Conditional Use Zoning Petition, then it should be handled in the proper manner through the Planning Advisory Board and City Council, with proper notice to all neighboring properties, thus affording the opportunity to voice concerns and objections regarding the entire Conditional Use zoning. With that information, the City Council would be able to determine how to proceed in a fair and equitable manner.

Sincerely,

A handwritten signature in black ink, appearing to read 'Barbara Z Walker', is written over the typed name and company.

Barbara Z Walker  
Neapolitan Enterprises

**255 13<sup>TH</sup> AVENUE SOUTH, SUITE 202  
NAPLES, FL 34102  
PHONE 239-261-8936  
FAX 239-261-2904**

4

#12 EXB A Page 1 of 1

**Ann Lynch**

**From:** BZWALKER@aol.com  
**Sent:** Tuesday, January 18, 2011 12:18 PM  
**To:** Teresa Heitmann; Sam Saad; Gary B. Price II; Margaret D. Sulick; Mayor Bill Barnett; John Sorey III; Doug Finlay; citymanager  
**Cc:** ryovanovich@cyklawfirm.com; jft@tobinent.com; tony@ridgwaybarandgrill.com  
**Subject:** Le Lafayette Petition

Mayor Barnett and Council -

I have heard from several of you regarding our letter on the Le Lafayette Petition for Valet Parking and appreciate your concern for the issues we raised. We do not wish to be opposing the efforts of any merchant on Third Street who is trying to improve their own business - in fact, we welcome such efforts, provided the owners have gone through the proper procedures to obtain such approval. Our primary concern is that all merchants be required to abide by the Naples City Code and that this Code be applied equally and fairly to all property owners and tenants.

In an effort to try to find some immediate compromise that would offer an opportunity for a full review of this situation, without preventing Le Lafayette from receiving the immediate approval of their revised valet request, we would like to suggest the following:

- 1) City Council approve on a temporary basis, for 90 days only, the request by Le Lafayette to move the valet parking to the 13th Avenue location they have requested.
- 2) During this 90 day period, Le Lafayette would need to file for a modification of their Conditional Use zoning if they wish to extend this relocation of the valet service beyond the 90 day period. This request would then be heard by the Planning Advisory Board and the City Council, with notice to all the adjacent property owners.
- 3) Le Lafayette must agree to immediately and permanently abide by all the other requirements of their current Conditional Use zoning, including providing valet parking 7 days per week in the evenings and the closure of the appropriate portion of the restaurant during the lunch hours. City staff should be asked to verify full compliance.

Hopefully, at least some sort of reasonable compromise can be achieved in this matter.

Barbara Walker for Neapolitan Enterprises

BARBARA Z WALKER  
1129 14th Avenue North  
Naples, FL 34102  
Phone 239-435-0989  
Fax 202-318-0501  
Cell 202-445-8675  
bzwalker@aol.com  
and  
Neapolitan Enterprises  
255 13th Ave So, Suite 202  
Naples, FL 34102  
PH 239-261-8936  
FX 239-261-2904

5:00 PM  
3



# Memo

## Streets & Stormwater

Streets & Traffic • Stormwater

TO: A. William Moss, City Manager  
FROM: George Archibald, Traffic Engineer  
DATE: January 14, 2011  
SUBJECT: Additional Valet Route Information for LeLafayette  
Valet Station Application #2011-022,  
Agenda Item #12, City Council Meeting of 19Jan11

In regard to the issue of various routes for the subject valet application, the applicant and City staff have reviewed the operational and safety aspects of five (5) primary valet routes. The routes are shown on the attached color exhibits. Consistent with the staff's recommendation, the safest route is the 14<sup>th</sup> Avenue South route in consideration of potential 'conflict' points and traffic control measures. During off-peak hour periods, either the north-side alley route and/or the u-turn route are feasible. Other routes shown on the attachment are possible but each has potential conflicts involving either competing uses and/or the need to obtain private property owner approval.

In considering the timing and actual number of valet parking maneuvers (Note: turnover rate for dining is estimated at between 60-120 minutes), there will be days of the week and hours of the evening wherein the shortest valet service route is most appropriate. Accordingly, it is proposed that there be administrative latitude in providing for a 'primary valet route' for peak traffic periods and a 'secondary' route for off-peak periods. In all cases, the valet service provider shall remain responsible and liable for the operation.

In considering the information above and the attached route sketches, this office remains available to provide additional information as may be necessary.

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