AN ORDINANCE RELATING TO THE COMMUNITY REDEVELOPMENT AGENCY ADVISORY BOARD PURSUANT TO RESOLUTION 03-10109; AMENDING SUBSECTION (b) OF SECTION 2-475, APPLICABILITY OF DESIGN REVIEW, PROHIBITIONS; AMENDING DIVISION 8, FIFTH AVENUE SOUTH ACTION COMMITTEE, OF ARTICLE V, BOARDS, COMMISSIONS AND COMMITTEES, OF CHAPTER 2, ADMINISTRATION, CREATING THE COMMUNITY REDEVELOPMENT AGENCY ADVISORY BOARD; PROVIDING FOR COMPOSITION, TERM OF OFFICE, QUORUM; PROVIDING FOR DUTIES; PROVIDING FOR STAFF ASSISTANCE AND ALLOCATION OF EXPENSES; AMENDING SUBSECTION (e)(2) OF SECTION 46-42, PUBLIC ART; AMENDING SUBSECTION (e)(3)(d) OF SECTION 56-127, OUTDOOR DINING ON PUBLIC PROPERTY; AMENDING SUBSECTION (d)(2)(e) OF SECTION 56-127, OUTDOOR DINING ON PUBLIC PROPERTY; AMENDING SECTION 58-919, IMPROVEMENT AND REDEVELOPMENT REVIEW; AND AMENDING DIVISION 6, 5TH AVENUE SOUTH SPECIAL OVERLAY DISTRICT OF ARTICLE III, SPECIAL OVERLAY DISTRICTS, OF CHAPTER 58, CHANGING OR DELETING ALL REFERENCES PERTAINING TO THE STAFF ACTION COMMITTEE OR FIFTH AVENUE SOUTH ACTION COMMITTEE; REPEALING ORDINANCE 04-10654; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND PROVIDING AN EFFECTIVE DATE

WHEREAS, on June 18, 2003, by Resolution 03-10109, the City Council created a seven-member advisory board called the Community Redevelopment Agency Advisory Board (CRAAB) for the purpose of assisting the Council in its capacity as the Community Redevelopment Agency (CRA) by providing public input and technical advice, making recommendations including, but not limited to, land use, economic and cultural vitality and diversity, acquisition/condemnation/demolition of properties, funding alternatives, and manpower needs for the Community Redevelopment Agency; and

WHEREAS, the City Council has previously added certain duties and responsibilities to the CRAAB; and

WHEREAS, the City Council has previously created a Staff Action Committee and later reconstituted that committee as the Fifth Avenue South Action Committee (FASAC); and

WHEREAS, the Council deems it advisable to reconstitute the committee structure, codify the establishment of the CRAAB, combine many of the duties of the previous board and committee and provide for jurisdiction and duties;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. That Subsection (b) of Section 2-475 of the Code of Ordinances of the City of Naples is hereby amended to read as follows (with underlining indicating additions and strikeout indicating deletions):

Sec. 2-475. Applicability of design review; prohibitions.

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(b) Buildings and structures located in single-family residential districts or in the 5th Avenue South special overlay district are excluded from this division.

Section 2. That Division 8, Fifth Avenue South Action Committee, of Article V, Boards, Commissions and Committees, of Chapter 2, Administration, of the Code of Ordinances of the City of Naples is amended to read as follows (with underlining indicating additions and strikeout indicating deletions):

DIVISION 8. FIFTH AVENUE SOUTH ACTION COMMITTEE*

Sec. 2-571. Established; composition; jurisdiction; procedures for permit approval.

The Fifth Avenue South Action Committee {FASAC or "committee") is established to review and interpret the Fifth Avenue South Overlay district (the district) as described in division 6, Article III, Chapter 58 of this Code and to facilitate the permitting process within the Fifth Avenue South area.

(1) Composition of committee.

a. The committee shall consist of the following members, five of whom shall be voting members with one alternate who shall vote only when one of the five voting members is absent. The term of office for each appointed member shall be three years and shall be limited to two consecutive three-year terms. The term of office shall commence on June 1 of the year in which appointed. Any appointed member may be removed for cause by a majority vote of the city council. All members shall be appointed by the city council. To the extent feasible, the committee will be comprised of the memberships prescribed below; however, council may, in its discretion, make appointments of others to the committee:

1. A member of the city council, ex officio.
2. At least two members to be recommended by the Fifth Avenue South Association.
3. An architect.
4. A member at large, who shall be domiciled in the city.
5. An alternate member, who may be in category 2, 3 or 4 above.

b. City staff, as designated and provided by the city manager, representing the following areas shall act as liaison and technical advisors to the committee:

1. Community redevelopment agency;
2. Community development;
3. Police and emergency services;
4. Community services; and
5. Public works.
The technical advisors shall review committee applications in their area of expertise, provide the committee with their recommendations, and attend the committee meetings when applications on the agenda fall into their area of expertise.

e. The city manager shall facilitate and coordinate the work of the committee.

d. The committee shall elect a chair and a vice chair, who shall, in the absence of the chair, perform the duties of the chair.

e. A quorum shall be necessary for conducting the business of the committee. A majority of the duly appointed members constitutes a quorum.

(3) Jurisdiction of committee. The committee shall be authorized, within the district, to:

a. Review applications for all exterior improvements on privately owned land, including the construction, reconstruction, alteration, demolition, and rehabilitation of new and existing buildings and appurtenances, and landscaping, prior to the issuance of building permits.

b. Effect the equitable distribution and redistribution within each block of the municipal on-street parking designated on the regulating plan for the purpose of encouraging new building construction and to keep a record of such transactions.

c. Recommend to the city council the purchase of land for the construction and management of parking facilities and the sale or lease of specific parking spaces.

d. Recommend to the city council code changes to implement a shared parking program for the area, including incentives to induce existing parking lots to be rebuilt and landscaped to serve more than one property.

e. Recommend to the city council changes to this division to accommodate recurring conditions which were not anticipated and to close loopholes when they occur.

f. Adopt and publicize the minimum rules and procedures necessary to carry out its functions.

g. Recommend to city council right-of-way streetscape treatments, including landscaping, sidewalks, and street furnishing.

h. Consider the status of existing nonconforming buildings when they are brought up for renovation and provide for nonsubstantial nonconforming renovations. When considering the nonconformity of an existing building and implementing this division, the committee may approve proposed renovations that do not strictly comply with this division if the proposed renovation achieves the requirements of this division as closely as possible and is consistent with the
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intent of this division.

i. Recommend approval, approval with conditions, or denial of an application. Recommended approvals shall be based upon conformance with the requirements of the Fifth Avenue South District Code. The committee shall record its reasons and conditions for recommending approval or denial of the application.

j. The committee may approve recommendations found in Master Plan and Retail Recommendations for the Fifth Avenue South, City of Naples, Florida, Final Draft, February 1994, by Duany Plater-Zyberk & Company, and Gibbo Planning Group, Retail Consultant, for the exterior of a building through the application process. In approving the application to implement the recommendation, the committee may consider the context in which the recommendation was made and other recommendations which may be included in the report.

k. The committee may approve the regulation of existing parking spaces on private property and public property for customer parking. The committee will establish a parking identification program following the recommendations found in the Fifth Avenue South master plan.

l. The committee may approve outside decorative displays which are consistent with the Master Plan and Retail Recommendations for Fifth Avenue South, City of Naples, Florida, Final Draft, February 1994, by Duany Plater-Zyberk & Company, and Gibbo Planning Group, Retail Consultant, and which complement the design of the building.

m. The committee shall review and approve all temporary use/special events permits which will be located within the Fifth Avenue special overlay district prior to issuance of the permit. Banners on or over Fifth Avenue South shall not be permitted. Banners in other locations shall be permitted only if announcing an event on the property on which the banner is located.

(3) Procedures for permit approval:

a. Application: Before beginning any improvements affecting the exterior of a building or site on private land, including the construction, reconstruction, alteration, rehabilitation, changing the color of a building, landscaping, and demolition of buildings and appurtenances, a written and drawn application for such work shall be submitted to the committee. No building permit shall be issued before the project receives approval from the committee.

b. Drawings: All submittals involving modifications to walls shall be drawn to scale by an architect or engineer licensed in the State of Florida.

c. Models: A massing model or study model shall be required for all new buildings or major alterations (i.e., additional floors or additions to the front of a building). All models shall include the adjacent buildings. The committee may grant an exception from this requirement if it finds that a
model would not be beneficial in determining if the new building or major alteration complies with this division. A request for an exception to this requirement must be made by the applicant in writing prior to submission of a committee application.

d. Decision. A decision by the committee shall be made within 14 days of the receipt of a complete application. This time period may be extended by mutual agreement between the applicant and the committee or city manager.

e. Waivers. The committee shall not be authorized to grant waivers from the regulations of this division or of the Code. Applications requesting waivers to this division shall be decided in a public hearing by the city council.

f. Appeal. A decision made by the committee may be appealed to the city council by the applicant or a substantially affected person by filing an appeal with the city manager and paying the applicable fee within 14 days after the rendition of the decision by the committee.

1. In determining whether an application should be approved, approved with conditions or deviations, or disapproved, the committee, any reviewing board, or the council shall consider the purposes and goals of the district, the development scheme as set out in the reports and master plans for the district, the development standards for the district, the need for coordination in planning, development and redevelopment of the district, the planning and goals of the community redevelopment area as it applies to the district, and the goals for the district as otherwise may be set out in the comprehensive plan and in other portions of the code.

2. The committee shall consider whether the application creates more than a five percent increase in development intensity or in parking needs; whether it changes approved color schemes on facades; whether it changes patterns in traffic or pedestrian traffic; and whether it changes the rhythm and harmony of the structure internally or in relation to other structures in close proximity. If any of these standards are found to exist, the deviation will be considered to be substantial.

h. Enforcement. This division shall be enforced in accordance with the provisions of the land development code.

Article V. Boards, Commissions and Committees

DIVISION 8. COMMUNITY REDEVELOPMENT AGENCY ADVISORY BOARD.

Sec. 2-571. Creation and Purpose.
There is hereby established the Community Redevelopment Agency Advisory Board, for the purpose of advising the city council in the council's capacities as the Community Redevelopment Agency (CRA) and as city council by receiving public input, providing technical advice, and making recommendations for the matters within the board's jurisdiction and duties.

Sec. 2-572. Composition; term of office; quorum.

(a) The board shall consist of 7 members, a majority of whom shall be legal residents of the city. Whenever possible the board shall be comprised of persons who shall be business owners, property owners or residents of the following: 2 from the Fifth Avenue South Overlay District, 2 from the "D" Downtown District; and 2 from the Community Redevelopment Area.

(b) The initial terms of appointment shall be staggered with 3 members appointed for 2 years and 4 members appointed for 3 years. At the end of the initial terms, all appointments shall be for a period of 2 years unless the appointment is to fill the unexpired term of vacant positions. Members shall serve until such time as they are reappointed or replaced. No member shall serve more than 2 full terms in succession unless waived by council.

(c) A quorum consisting of a majority of the membership shall be required for the transaction of business.

(d) The board shall adopt a set of bylaws consistent with this division, to be approved by council, that includes at a minimum, a provision for electing a chair and a vice chair, a provision for conducting regular meetings and for calling and conducting special meetings; and a provision for conducting quasi-judicial hearings.

Sec. 2-573. Duties.

The board shall perform the following duties:

(a) Receive public input and provide technical recommendations concerning land use; economic and cultural vitality and diversity; acquisition, condemnation and demolition of properties; funding alternatives; and staffing needs for the Community Redevelopment Agency and for the city manager pertaining to the Community Redevelopment Area.

(b) Consider applications and make recommendations to Council for the following matters or applications within the Community Redevelopment Area, the Fifth Avenue Overlay District, and the D Downtown district:

(1) Purchase of land for the construction and management of parking facilities and the sale or lease of specific parking
spaces in the D Downtown and Fifth Avenue South Special Overlay Districts.

(2) Equitable distribution, redistribution and sale of municipal on-street parking and other publicly provided parking and the review of petitions for payments in lieu of parking.

(3) Incentives to induce private parking lots to be improved and landscaped.

(4) Potential legislative amendments to implement a shared parking program for the designated areas, including incentives to induce existing parking lots to be rebuilt and landscaped to serve more than one property.

(5) Potential legislative amendments and new plans pertaining to right-of-way streetscape treatments, including landscaping, sidewalks, and street furnishing in the D Downtown and Fifth Avenue South Special Overlay Districts.

(6) Changes to the land development regulations for the D Downtown and Fifth Avenue Special Overlay Districts consistent with recommendations of the CRA Master Plan, Heart of Naples Plan, Master Plan and Retail Recommendations for Fifth Avenue South by Duany Plater-Zyberk & Company, and Gibbs Planning Group, Retail Consultant or other plans and studies that may be adopted in the community redevelopment area.

Sec. 2-574. Staff Assistance; Allocation of Expenses.

The city manager and the community redevelopment director and their respective staffs will provide support for the board as directed by the council and the community redevelopment agency and the expenses relating to board functions shall be fairly apportioned between the city and the community redevelopment agency.

Section 3. That Subsection (e) (2) of Section 46-42 of the Code of Ordinances of the City of Naples, is amended to read as follows (with underlining indicating additions and strikeout indicating deletions):

Sec. 46-42. Public art.

(e) Procedures for review. Developments required to provide public art shall comply with the following:

(2) If the property owner or developer chooses to provide public art either on site or on public property, the following submissions shall be made simultaneous with the design review or Fifth Avenue South Action Committee petition:

a. If the public art has not been created, produced or rendered, then the property owner or developer shall submit to the public art advisory committee:

1. A description, in writing, the process by which
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the artist will be selected; and

2. A proposed schedule for the creation, completion and installation of the approved art at the development site; and

3. The location where the public art is to be installed; and

4. A detailed cost estimate or other evidence of value.

b. If the public art has been created, produced or rendered, then the property owner or developer shall submit to the public art advisory committee:

1. Graphic, photographic or architectural renderings; and

2. A description of the proposed public art which is to be installed at the development site or other public place; and

3. The location where the public art is to be installed; and

4. An independent appraisal of the value of the art work, to the public art advisory committee or other evidence of value.

c. The location of the public art shall be reviewed by the design review board or Fifth Avenue South Action Committee at such time as the petition is brought before the board or committee. The board's recommendation relative to the location of the public art shall be forwarded to the public art advisory committee for their consideration.

Section 4. That Subsection (c)(3)d. of Section 56-127 of the Code of Ordinances of the City of Naples, is amended to read as follows (with underlining indicating additions and strikeout indicating deletions):

Sec. 56-127. Outdoor dining on public property.

(c) Permitting.

(3) Submittal requirements.

d. In addition, approval from other applicable approving bodies such as, but not limited to, the state alcoholic beverage and tobacco division and the city's staff action committee (SAC) must be provided before
the issuance of a certificate of occupancy.

Section 5. That Subsection (d)(2)e. of Section 56-127 of the Code of Ordinances of the City of Naples, is amended to read as follows (with underlining indicating additions and strikeout indicating deletions):

Sec. 56-127. Outdoor dining on public property.

(d) Outdoor dining operated on public property.

(2) Development standards and criteria.

There will be maintained a minimum of 5-foot clear distance or 50 percent of the sidewalk width, whichever is greater, free of all obstructions, in order to allow adequate pedestrian movement, unless previously exempted by the SAC, the city manager or the city council. The 5-foot or 50 percent clear area will be measured and maintained when chairs and tables are occupied. The outdoor dining area shall be located adjacent to the building facade, with the 5-foot or 50 percent clear pedestrian passage provided between the dining area and the edge of the pavement.

Section 6. That Section 58-919 of the Code of Ordinances of the City of Naples is hereby amended to read as follows (with underlining indicating additions and strikeout indicating deletions):

Sec. 58-919. Improvement and redevelopment review.

(a) Community redevelopment agency advisory board. The city community redevelopment agency advisory board (CRAAB) shall be authorized to administer this division on matters outlined in chapter 2, article V, division 8. the following matters related to parking:

(1) For properties 100,000 square feet or less, the CRAAB shall be authorized to effectuate the equitable distribution and redistribution of the municipal on street parking designated in Diagram 6 on file in the office of the city clerk for the purpose of encouraging redevelopment and to keep a record of such transactions.

(2) The CRAAB may grant parking outside the geographic area of a property if the parking is within 3 blocks of the property.

(3) The CRAAB shall approve or disapprove all applications for payment in lieu of parking described in section 58-920.

(4) The CRAAB shall approve or disapprove all applications for the dedication of public parking on private property.
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(5) The CRAAB shall recommend to the city council the purchase of land for the construction and management of parking facilities and the sale or lease of specific parking spaces.

(6) The CRAAB shall recommend to the city council code changes to implement a shared parking program for the area, including incentives to induce existing parking lots to be rebuilt and landscaped to serve more than 1 property.

(7) The CRAAB shall recommend to city council right of way streetscape treatments, including landscaping, sidewalks, and street furnishing.

(8) The CRAAB may review and approve the regulation of existing parking spaces on private property and public property for customer parking.

(9) The CRAAB may establish a parking identification program following the recommendations found in the 5th Avenue South Master Plan.

(10) The CRAAB shall review all temporary use or special event permits which will be located within the district prior to issuance of the permit. Banners may be permitted only if announcing an event on the property on which the banner is located.

(b) Procedures for design review. The city design review board shall determine compliance with this division and with the provisions of chapter 2, article V, division 4 (design review board) and section 50-241 (architectural and landscape architectural design standards) for any improvements affecting the exterior of a building or site on private land, except as provided in section 58-918, including construction, reconstruction, alteration, rehabilitation; changing the color of a building; landscaping; and demolition of buildings and appurtenances. No building permit shall be issued before the project receives approval from the design review board.

Section 7. That Division 6, 5th Avenue South Special Overlay District, of Article III, Special Overlay Districts, of Chapter 58, of the Code of Ordinances of the City of Naples is hereby amended to read as follows (with underlining indicating additions and strikethrough indicating deletions):

Article III. Special Overlay Districts

DIVISION 6. 5TH AVENUE SOUTH SPECIAL OVERLAY DISTRICT

Sec. 58-1131. District purpose.

The purpose of this division is to encourage and direct development within the 5th Avenue South district. This division shall ensure that new buildings are encouraged; that such buildings be compatible with each other while also relating to the pedestrian; that retail be safeguarded along specific street frontages; that development opportunities be equitable for all scales of ownership; that no significant additional traffic impacts will be added to surrounding
residential neighborhoods; and that the permitting process be simplified and facilitated. The design of buildings within the 5th Avenue South district shall be regulated and approved in accordance with the provisions of this division.

Sec. 58-1132. Definitions.

Terms used throughout this division shall take their commonly accepted meaning unless herein defined. When there are conflicts between the definitions herein and other definitions in this land development code, these shall take precedence.

Artisanal use means premises used primarily for the repair, manufacture and sale of domestic furniture, arts and crafts. The work must take place entirely within an enclosed structure using only handheld and/or table-mounted manual and electrical tools.

Awning means temporary canvas or other material covering extending from and attached to the facade of a building, without ground supports, primarily used for sun protection.

Awning roof structure means a semipermanent canvas or other material covering with ground supports, open on all sides except where attached to a building.

Civic use means premises used primarily for education, cultural performances, gatherings and displays administered by nonprofit cultural, education, and religious organizations.

Commercial use means premises used generally for the conduct of artisanal, retail, restaurant, transient lodging, professional business, governmental service, or cultural entertainment activities, but excluding prohibited uses. Establishments with liquor licenses which require city council approval through the conditional use petition process must be located no closer than 250 feet together, as measured from front door to front door via the path of normal pedestrian travel; other establishments with liquor licenses are specifically permitted with no required separation from other businesses or licensees.

Facade means the vertical surface of a building which is set parallel to a frontage line.

Frontage line means certain property lines of a lot or the edge of an open space as designated on the regulating plan.

Height means the vertical distance measured from the FEMA 1st habitable floor height requirement to the peak of the roof or the highest point of any appurtenance attached to the roof.

Net building area means the enclosed area of a building, measured to the exterior of the exterior wall, excluding unglazed porches, colonnades, balconies, decks, patios, courtyards and exterior walkways and stairways.

Permitted uses means all uses permitted in the Cl-A district as well as defined as commercial uses in this section.

Prohibited uses means uses which are not listed as permitted including the following:

(1) Automatic food and drink vending machines, newspaper vending
machines at frontage lines;

(2) Any commercial use which encourages patrons to remain in their automobiles while receiving goods or services, except bank and pharmacy drive-throughs;

(3) Manufacturing, storage or distribution as a primary use except as defined by artisanal use;

(4) Enameling, painting, or plating, except as an artist's studio;

(5) Outdoor advertising or billboard as a principal use;

(6) Carting, moving or hauling yard, except delivery goods to businesses;

(7) Single-room occupancy hotels, prisons, detention centers or halfway houses;

(8) Manufacture, storage, or disposal of hazardous waste materials;

(9) Scrap yards;

(10) Mobile homes;

(11) Kennels, except as ancillary to a veterinarian and as ancillary use to police station;

(12) Any use which produces adverse impacts as defined determined by the city manager SAC.

Residential use means premises used primarily for human habitation. Units shall not be less than 750 square feet in net area except that limited lodging use may have smaller units.

Setback means the mandatory distance between the lot line or frontage line and a facade. This area must be left free of structures that are higher than 3 feet, excluding streetwalls.

Shared parking policy means parking spaces assigned to general use where utility is thereby increased to 140 percent. This policy shall be used by the SAC to encourage renovation and new construction.

Storefront means that portion of a building at the 1st story of a frontage line.

Story means a habitable floor level within a building, no more than 14 feet high from floor to ceiling.

Streetwall means an opaque freestanding wall aligned with the facade of an adjacent building with the purpose of masking parking from the street.

Terminated vistas means a building or portion thereof which terminates a view as designated on the regulating plan.

Transient lodging means a hotel in which sleeping accommodations and sanitary facilities are offered to the public and intended for rental to transients for periods of time less than a month. A transient lodging facility shall require a conditional use approval per section 46-34.
Transition line means a horizontal line the full width of a facade expressed by a material change, by a trim line, or by a balcony no more than 2.5 feet deep.

Yards. For the purpose of determining setbacks, lots shown with frontage lines on both 5th Avenue South and a street are deemed to have 2 front yards and 2 side yards.

Sec. 58-1133. General provisions.

(a) Conflicts with other land development regulations. The provisions of this division, when in conflict, shall take precedence over the other provisions of this land development code.

(b) Conflicts with Florida Building Code. The provisions of the Florida Building Code, when in conflict, shall take precedence over the provisions of this division.

(c) Applicability.

(1) Buildings abutting frontage line. This division shall govern the design of all properties on frontage lines as designated on the regulating plan.

(2) Buildings not abutting frontage line. The provisions of the underlying zoning district shall govern the use of buildings which do not abut a frontage line as designated on the regulating plan. SAC review is required. The SAC city manager may grant an exception to a deviation from the minimum yard requirements following design review approval, where applicable, but in no case may and upon a finding that the project meets the general intent of the district and master plan and that the exception does not exceed the minimum yard requirements of the 5th Avenue South special overlay district.

(d) Design of civic buildings. The design of civic buildings shall not be subject to the specific standards of this division which regulate building height, building placement, building use, parking, signage, and architectural standards but shall be reviewed by the DRB SAC.

(e) Terminated vistas. Locations designated on the regulating plan for terminated vistas shall receive special attention from the SAC. These locations shall be provided with architectural features of enhanced character and visibility.

(f) Special landscape treatment. Areas marked on the regulating plan for special landscape treatment shall be subject to cooperative design by the property owners and the city as determined by the SAC.

(g) Location of parking garages and civic buildings. Locations designated on the regulating plan for parking garages or civic buildings shall be as designated in the following Exhibit A.

Sec. 58-1134. Specific provisions.

(a) Building height. The various elements of building height shall be determined as follows:
(1) Buildings shall be a maximum of 3 stories and 42 feet in height measured from the FEMA 1st habitable floor height requirement to the peak of the roof or the highest point of any appurtenance attached to the roof.

(2) Stories at sidewalk level shall be no less than 12 feet in height from finished floor to finished ceiling.

(3) A transition line shall be provided at the top of the 1st story. The transition shall be detailed to receive an awning. A transition line shall be expressed by a material change, by a trim line, or by a balcony no more than 3 feet deep.

(4) Parking garages shall be no more than 1 deck above grade except for the city lot for which a development agreement has been as approved by city council upon a finding that the project meets the general intent of the district and master plan.

(b) Building placement. Buildings and their elements shall be placed on their lots as follows:

(1) Front setback.

a. 1st story. 1st story facades shall have no front setback. Awnings, awning roof structures, arcades, or other similar attached structures may satisfy this requirement.

b. 2nd story. 2nd story facades shall have a mandatory setback of no less and no more than 10 feet from the property line. When the 1st story extends into the front 10-foot yard, 2nd story balconies which extend over the 1st story shall extend across the entire front facade. Awnings and the required supports for the awnings are permitted over 2nd story balconies but no other permanent improvements are allowed above the height of the railing. A balcony (a small balcony that extends no more than 1 foot from the facade of the building and extends no more than 8 inches from either side of a door or window opening) is permitted.

c. 3rd story. 3rd story facades shall have a mandatory setback of 10 feet. 3rd story balconies shall be recessed, shall not extend beyond the 2nd story facade and shall be enclosed by the plane of the roof. A balcony (a small balcony that extends no more than 1 foot from the facade of the building and extends no more than 8 inches from either side of a door or window opening) is permitted.

(2) Streetwall. In the absence of a building facade, a streetwall shall be built aligned with an adjacent building facade. Streetwalls shall be between 2 1/2 and 3 1/2 feet in height and made of a material matching the adjacent building or a continuous, maintained hedge. Streetwalls may have openings no greater than 25 feet to allow automobile and pedestrian access.
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(3) **Side setbacks.** Side setbacks are not required.

(4) **Rear setback.**

a. **Rear setback--interior lots.** Rear facades on interior lots shall be set back a minimum of 50 feet from the midpoint of the alley. Balconies may extend into the rear setback by 10 feet.

b. **Rear setback--corner lots.** Rear facades on corner lots shall be set back a maximum of 20 feet from the midpoint of the alley for a distance of no more than 50 feet from the front property line.

c. **Carports.** Carports may encroach into the required rear setback subject to the following:
   1. The carport must be designed in keeping with the design of the building.
   2. The carport must be open on all 4 sides (except where attached to the principal building, if applicable).
   3. The carport roof must be made of fabric.
   4. The carport must be a minimum of 15 feet from the centerline of the alley.

(5) **Adjacent preexisting setbacks.** In the event of adjacent preexisting setbacks, an adjustment may be allowed or required by the SAC DRB. Without design review, approval of a waiver deviation by the city council will be required upon a finding that the project meets the general intent of the district and the master plan.

(6) **Awnings.** Awnings may encroach the sidewalk in its entirety but must avoid the municipal planters areas. Approval must be obtained from the SAC and the city manager.

(7) **Loading docks and service areas.** Loading docks and service areas shall not be permitted on frontage lines.

(8) **Surface parking lots.** Surface parking lots shall not be permitted on a frontage line or within 30 feet of the frontage line.

(9) **Principal pedestrian entrance.** All buildings shall have their principal pedestrian entrance on a frontage line.

(10) **Lot coverage.** Lot coverage shall be limited only by setback requirements.

(11) **Nonconforming buildings due to rear setbacks.** An existing nonconforming building which does not conform to the required 50-foot rear setback may maintain the existing building setback when additional stories are added as long as the additional stories meet the required setback. The roof of the nonconforming existing 1st or 2nd story may be used for a balcony.
(c) Building uses. Buildings shall accommodate the following range of uses:

(1) Uses permitted. All uses permitted in the Cl-A district as well as defined as commercial uses in this section. All uses that are conditional uses in the Cl-A district are conditional uses in this district. Outdoor dining which does not directly abut the 5th Avenue South right-of-way shall also require conditional use approval. Uses which are not listed as uses permitted shall be prohibited, including the following:

a. Automatic food and drink vending machines, newspaper vending machines at frontage lines;

b. Any commercial use which encourages patrons to remain in their automobiles while receiving goods or services, except bank and pharmacy drive-throughs;

c. Manufacturing, storage or distribution as a primary use except as defined by "artisanal use";

d. Enameling, painting, or plating, except as an artist's studio;

e. Outdoor advertising or billboard as a principal use;

f. Carting, moving or hauling yard, except delivery goods to businesses;

g. Single-room occupancy hotels, prisons, detention centers or halfway houses;

h. Manufacture, storage, or disposal of hazardous waste materials;

i. Scrap yards;

j. Mobile homes;

k. Kennels, except as ancillary to a veterinarian and as ancillary use to police station;

l. Any use which produces adverse impacts as defined determined by the city manager SAC.

(2) 1st stories shall be for commercial use only. Transient lodging shall not be permitted on 1st stories. 2nd stories may be for commercial, transient lodging or residential use, except that restaurants or cocktail lounges are not permitted on 2nd stories. 3rd stories are limited to transient lodging and residential use only.

(3) Commercial and residential uses are required to a minimum depth of 30 feet from the frontage line on all stories. The remaining depth may be used for parking. Parking exposure on a frontage line shall be an opening not wider than 25 feet.

(4) Seating for outdoor dining shall be permitted to encroach the public sidewalks adjacent to the private property leaving a 5-foot clear pedestrian passage between the
outdoor dining and the right-of-way landscaping or paved roadway.

(5) Newspaper vending machines shall not be permitted along the 5th Avenue frontages. Existing newspaper vending machines along the 5th Avenue frontage shall be relocated or removed to a location in conformance with city regulations by June 30, 1995.

(d) Building area. The permitted building area shall be calculated as a function of the number of parking spaces provided on the lot as follows:

1) There shall be a minimum of 3 off-street parking spaces for each 1,000 square feet of commercial use and 1 1/2 parking spaces for each residential unit and 1 for each lodging unit. There shall be at least one parking space for each residential unit located on-site in addition to required handicapped parking. Parking requirements shall be calculated by the net building area. There shall be no parking requirement for outdoor dining use.

2) The regulating plan specifies the number of municipal spaces from the parking reserve which are present on each block. These spaces are available to the property owners at the time of SAC approval of new construction at no cost on a first-come basis. The parking reserve may be used the council may make public parking available for allocation to meet the required parking for new construction or to replace lost parking spaces due to new construction or to restructure the existing parking. If the public parking reserve is used to replace parking lost due to support new construction, that new construction shall be furthering the purpose of the 5th Avenue South special overlay district. Parking spaces may be allocated by the council after preliminary or final design review and the review and recommendation of the CRAAB. Once spaces are allocated by the SAC to a specific property owner for new construction, the property owner shall have 1 year to obtain a building permit for the construction and pay any required fees for the parking. If a building permit is not obtained within 1 year, the reserved spaces shall be made available for reallocation return to the parking reserve. The SAC city manager shall maintain a waiting list, on a first-come basis, of property owners who have requested and received SAC approval for reserve parking. A property owner who has been allocated parking spaces from the reserve pool and does not obtain a building permit within 1 year may reapply and if there is a waiting list shall be placed at the end of the list. Property owners may request parking from the reserve pool as indicated on the reserve parking pool plan. Once the reserve is exhausted, the SAC may create and provide additional parking spaces at a fee sufficient to cover the construction of parking garages at the sites designated on the regulating plan.

3) This building area may be increased as follows: The calculated number of parking spaces provided shall be increased by 40 percent upon the assignment of such spaces
to the shared parking program. At least 80 percent of the parking spaces provided shall be dedicated to the shared parking program. When at least 80 percent but less than 100 percent of the total parking spaces are allocated to the shared parking program then only the parking spaces provided to the shared parking program shall be increased by 40 percent.

(4) The city shall facilitate building renovation by favorably interpreting the various thresholds of value/cost ratios which trigger compliance with the fire code, ADA, and FEMA. These requirements shall be held in abeyance by:

a. Arranging for the highest possible realistic appraisal;

b. Excluding from the construction cost the elements which are not integral to the utility of the building, e.g., cabinetry which is not encumbered by plumbing, lighting beyond that which is necessary for health and safety, luxury wall and floor finishes such as mirrors, stone, and ornamental tile, signage and awnings, window walls beyond the cost of standard aluminum and plate glass storefront.

(4) The above parking requirements shall be applied to additional square footage only. Total required parking shall be the sum of the existing parking and the added required parking.

(5) Retractable awnings shall be exempt from fire sprinkler requirements. Fixed awnings under 1,450 square feet shall be subject to sprinkler requirements but only from the potable water supply without requirements for backflow prevention.

(e) Architectural standards. Buildings shall be subject to the following physical requirements:

(1) Exterior finish material. The exterior finish material on all facades shall be limited to smooth stucco and/or stone veneer.

(2) Exterior colors. Exterior building shall be white or colored in the cream to coral range. Trim shall be white. Doors, shop fronts, window frames and shutters shall be any color at any saturation. Buildings in single ownership shall be of uniform facade and trim color unless there are architectural elements such as pilasters or engaged columns or a change in the plane of the facade defining the separate tenant spaces.

(3) Glass color. Glass shall be clear or lightly tinted only.

(4) Balconies, railings and porch structures. Balconies, railings, and porch structures shall be metal, cast concrete, or stone.

(5) Facade openings. Facade openings, including porches, windows, and colonnades, shall be square or vertical in proportion.

(6) Sliding doors and windows; automatic doors. Sliding doors
and sliding windows are not permitted along frontage lines. Automatic doors may be permitted by the DRB SAC if the board SAC finds that the design of the building achieves the requirements of this division as closely as possible and is consistent with the intent of this division.

(7) **Flat roofs.** Flat roofs may be used for balconies which shall have railings. Flat roofs not used as balconies shall be enclosed by parapets no less than 42 inches high or as required to conceal equipment.

(8) **Visible roofs.** Buildings with roofs visible from the Avenue shall have symmetrical pitched roofs with slopes no less than 5:12. Porches and 1st floors may have shed roofs with pitch no less than 2:12.

(9) **Mansard roofs.** Cantilevered mansard roofs are not permitted.

(10) **Glazed area above 1st floor.** The glazed area of a facade above the 1st floor shall be at least 20 percent but shall not exceed 35 percent of the total area with each facade being calculated independently.

(11) **Facade design.**

a. **Facades on frontage lines.** The facades on frontage lines at 1st floor level shall be detailed and glazed as storefronts. The wood or metal armature of such storefronts shall be painted. Storefronts shall be directly accessible from sidewalks. Each storefront must have glazed areas, equal to 70 percent of its portion of the facade, between 2 and 8 feet from the ground. Storefronts shall have the mullion system, doorways and signage integrally designed and painted. Storefronts shall incorporate surface materials and design proportions similar to those on the facades of the building located on a frontage lines.

b. **Facades not on frontage lines.** The exteriors of buildings not facing frontage lines shall incorporate the same surface materials and similar design elements such as similar proportions, with attractive rear entrances and consideration of pedestrian pass-throughs.

(12) **Awnings.**

a. **Generally.** Facades may be supplemented by awnings which shall be straight sheds without side flaps, not cubed or curved, with a drip edge no greater than 12 inches. Awnings shall be no less than 8 feet high at the lower drip edge and shall not have ground supports. Awnings used in conjunction with a 2nd story balcony shall not extend beyond the edge of the balcony railing and shall have no minimum height requirement from the finished floor. Awning roof structures may be approved by the city manager SAC, but must meet all of the same standards as a building.

b. **Nonconforming buildings.** The SAC city manager may approve awnings that do not strictly conform to this
division if the following conditions are met:

1. The building is an existing building.
2. The architectural style of the building does not conform to this division.
3. The building facade is such that an awning which would conform to this division would not be architecturally compatible or complimentary to the building.
4. The proposed awning is the most appropriate style for the building, is compatible with adjacent buildings, and the awning achieves the requirements of this division as closely as possible and is consistent with the intent of this division.

When the SAC city manager approves an awning based on the criteria above, that awning style/design will become the standard style/design for all awnings for that particular building.

(13) Outside dining tables and chairs. Outside dining tables and chairs shall be primarily metal, cast concrete, wood or plastic. Outside dining tables located in the right-of-way shall be temporary and portable. The SAC shall approve outside dining tables/chairs and their location.

(14) Dumpsters. Dumpsters shall be placed in accordance with the dumpster regulations contained elsewhere in the code, in a location which is not visible from any right-of-way or pedestrian walkway whenever possible. If a dumpster must be located where it is visible from a right-of-way or pedestrian walkway, it shall be screened from view from said right-of-way or pedestrian walkway. Wherever possible, dumpsters shall be shared between property owners.

(15) Telephone and utility wires. Any new building or substantial change shall be required to relocate all telephone, electric and other wires of all kinds underground from the poles of the transmission cables located within the platted utility easements to the building or the connection.

(16) Temporary lighting. Temporary lighting must be approved by the council SAC. The SAC may approve temporary lighting for a period of time not to exceed 90 days.

(17) Procedures for design review. The city design review board shall determine compliance with this division and with the provisions of chapter 2, article V, division 4 (design review board) for any improvements meeting the thresholds of section 2-475.

(f) Signage standards. Signage, when provided, shall be as follows:

(1) Address numbers. Address numbers shall be no larger than 8 inches in vertical dimension.
(2) **Sign band.** A single external sign band or zone may be applied to the facade of each building, providing that it shall not exceed 2 feet in vertical dimension by any length. The sign band or zone may contain multiple individual signs but all must refer to a tenant of the building. The sign shall consist of letters applied directly on the facade of the building and shall not be on a board unless a sign plan is approved for the building by the city manager SAC. A maximum of 2 sign bands may be placed on the facade of each building.

(3) **Additional pedestrian signs.** Additional pedestrian signs or shingles may be attached to a building perpendicular to the facade extending up to 4 feet from the facade or may be placed underneath an awning structure and attached to the awning structure. These signs shall not exceed 1 1/2 feet by 4 feet. There may be 1 individual pedestrian sign for each business located on the 1st floor.

(4) **Lettering on awnings.** In addition, the vertical drip of an awning may be stenciled with letters no more than 8 inches in vertical dimension by any length.

(5) **Illumination; window signs.** External signs shall not be translucent, but may be externally lit or backlit. Signs on the interior of a window shall be limited to no more than 20 percent of a window up to a maximum of 12 square feet in area. No sign, display, merchandise or window tinting shall be placed on or adjacent to any window that would interfere with a clear and unobstructed view of the interior of the establishment from the outside and in particular of the cash register or registers from the street. Neon signs are permitted as interior window signs providing they not exceed 20 percent of a window up to a maximum of 4 square feet in area and shall be counted towards the maximum of 12 square feet permitted for interior window signs.

(6) **Sign identifying primary entrance.** A perpendicular sign identifying the primary entrance shall not exceed 1 foot in vertical dimension nor 2 feet in horizontal dimension.

(7) **Nonconforming buildings.** The city manager SAC may approve a sign plan or a new sign that does not conform strictly to this division if the following conditions are met:

a. The building is an existing building.

b. The building does not have a sign band.

c. The building facade is such that meeting the requirements of this division is not possible or is impractical.

d. If the sign is on an awning, the lettering shall consist of individual letters painted on the background of the awning and not on a panel or within a border. The sloped surface of an awning shall not be used for a new sign.

e. The design is in context with the signage and facade of the building.
f. The sign plan or sign achieves the requirements of this division as closely as possible and is consistent with the intent of this division.

g. Finding that these criteria are met, the SAC may approve a sign plan or new sign.

h. When the city manager SAC approves a new sign based on the criteria above, that sign will establish the sign plan for that particular building.

(8) **Restaurant menu boards.** The city manager SAC may approve restaurant menu boards/boxes (signs which display the menu for a restaurant, which may include prices and daily specials) subject to the following criteria:

a. There shall be only 1 sign per restaurant.

b. The total area of the sign shall not exceed 6 square feet.

c. The sign may be permanently installed on private property with no setback required, or within the right-of-way with the approval of the city manager.

(9) **Portable restaurant and valet signs; standards for valet parking.** The city manager SAC may approve (no building permit is required) 1 portable restaurant menu sign and 1 valet portable sign if the standard design is used. The city manager SAC shall consider the following criteria:

a. The sign shall be displayed only during hours of operation of the restaurant.

b. The sign may be displayed on private property or within the right-of-way in such a manner as not to interfere with pedestrian or vehicular traffic.

c. Portable restaurant signs shall be A-frame design with a dimension of 24 inches wide and 48 inches high.

d. Valet signs shall be freestanding, may be 2-sided, and shall be 24 inches wide and 30 inches high with the total height not exceeding 42 inches.

e. Valet parking shall be operated by the following criteria:

1. No more than 60 feet shall be used for valet parking.

2. Valet parking shall be centered, if possible, in front of the establishment.

3. Valet parking shall not begin prior to 6:00 p.m.

4. Valet parking shall not require the reservation of parking from the reserve parking pool.

5. Vehicles shall not park within the valet parking
area for more than 15 minutes.

6. All signage and other physical elements utilized to delineate valet parking will be submitted to the SAC for approval.

7. The SAC city manager retains the right to revoke valet parking approval upon finding that the above criteria and any additional criteria upon which the approval was granted have not been met.

(10) Directory sign. The SAC city manager may approve a directory sign identifying the building name and tenants within a building, subject to the following conditions:

a. Only 1 sign for each street or major pedestrian way upon which a building faces shall be allowed.

b. The sign must be installed on private property with no setback required.

c. The maximum total dimensions shall be 7 feet in height and 3 feet in width.

(g) Parking design standards. The design standards found in chapter 50, article III (landscaping and tree protection) and chapter 50, article IV (parking and loading) shall be met except as provided below when providing shared parking with adjacent lots:

(1) Section 50-74 (development standards) and section 50-103 (design and construction standards) shall be met unless a property owner participates in the shared parking program in which case the following requirements may be waived by the city manager SAC.

(2) Section 50-103(a)(1), which requires access from one section of an on-site parking area to another to be provided on-site, may be waived by the city manager SAC when access from one section of an on-site parking area to another uses an alley.

(3) Section 50-103(a)(6) (access aisles or maneuvering areas), which does not allow vehicles to back onto a public right-of-way, may be waived by the city manager SAC when the public right-of-way is an alley.

(4) Section 50-74(b) (vehicular use areas adjacent to public right-of-way), which requires landscaping adjacent to a public right-of-way, may be waived by the city manager SAC if the public right-of-way is an alley.

(5) Section 50-74(c)(2) (areas adjacent to commercial or industrial uses), which requires landscaping adjacent to the interior property lines, may be waived by the city manager SAC. Parking may extend over property lines with a cross easement agreement approved by the city attorney. Landscaping may be required by the city manager SAC in context with the redesign of the parking lot to meet the intent of the landscaping required by section 50-74(c)(2).
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(h) Off-street loading facilities. The design standards found in section 50-105 (off-street loading facilities) may be waived by the city manager SAC if the city manager SAC determines that such facilities are not necessary for the specific building or that alternate facilities are available for the type of deliveries anticipated to be required for the building.

Section 8. That Resolution 03-10109 is hereby repealed.

Section 9. It is the intention of Council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the code of Ordinances of the City of Naples, Florida, and that the sections of this ordinance may be renumbered to accomplish such intention.

Section 10. If any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 11. That all sections or parts of sections of the Code of Ordinances, City of Naples, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 12. This ordinance shall take effect immediately upon adoption at second reading.

APPROVED AT FIRST READING THIS 3RD DAY OF SEPTEMBER, 2008.


Bill Barnett, Mayor

Approved as to form and legality:

Robert D. Pritt, City Attorney

Attest:

Terra A. Norman, City Clerk

Date filed with City Clerk: 10-14-08