AN ORDINANCE RELATING TO ADMINISTRATIVE PROCEDURES AND PLANNED DEVELOPMENT STANDARDS; AMENDING THE CODE OF ORDINANCES, CITY OF NAPLES, SUBSECTIONS (a) and (d) OF SECTION 46-32, TO CORRECT THE SECTION TITLE AND TO INCREASE THE MINIMUM LAND AREA REQUIRED TO REZONE A PROPERTY; AMENDING SECTION 46-33 TO CHANGE THE SITE PLAN REVIEW PROCESS, TO ADD A SITE PLAN WITH DEVIATIONS PROCESS, AND TO DELETE THE GENERAL DEVELOPMENT AND SITE PLAN PROCESS; AMENDING SECTION 58-803 TO CHANGE THE SUBMITTAL REQUIREMENTS FOR PLANNED DEVELOPMENTS; AMENDING SECTION 58-807 TO CLARIFY SIGNIFICANT CHANGES TO PLANNED DEVELOPMENTS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND PROVIDING AN EFFECTIVE DATE

WHEREAS, on June 18, 2008, the City Council adopted Resolution 08-12116 declaring its intention to consider amendments to the ordinance governing rezoning to planned development, and increasing the minimum lot area required for rezoning; and

WHEREAS, the City Council has found that it is in the best interest of the City to increase the minimum lot area required for rezoning and amend the site plan review process; and

WHEREAS, on October 8, 2008, the Planning Advisory Board reviewed the proposed amendment and voted 6 to 0 to recommend approval;

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

Section 1. That Subsections (a) and (d) of Section 46-32 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. 46-32. Petition to rezone property or change nonconformity; petition for change in text.

(a) Initiation. Petitions to rezone property or to expand or change a nonconformity may be initiated by the city council, the Planning Advisory Board or the owner of the property involved. Change in text petitions may be initiated by the City Council or the Planning Advisory Board.

(d) Guidelines Standards for consideration of change in zoning. Except where the proposal for the rezoning of property involves an extension of an existing district boundary, no change in the zoning classification of land shall be considered which involves less than 5 acres of land 40,000 square feet of and 200 feet of street frontage, except for the "C" Conservation zone district, in which the subject property is not required to have street frontage, and the "PS" Public Service zone district, in which the subject property may have a minimum lot of 30,000 square feet and a minimum lot width of 150 feet.

Section 2. That Section 46-33 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. 46-33. Site plan review and site plan with deviations.

(a) **Intent.** The site plan review process shall provide for the administrative review of new multiple family or non-residential projects in the City according to the building code, fire safety code, land development code and other applicable regulations administered by the City prior to the submission of plans for building permit review or other zoning petitions except design review.

(b) **Applicability.** Site plan approval is required prior to and as a prerequisite for the issuance of a building permit for any of the following located in any non-residential zoning district or multifamily zoning district:

1. A new principal building or structure;
2. An addition to an existing structure that is greater than 1,000 square feet; or
3. Landscaping, lighting, paving and restriping projects exceeding 10,000 square feet.
4. Single family residences and structures located in single-family residential districts are excluded from this division.

(c) The required contents of the submittal shall be determined by the city and published with the site plan petition forms. Required contents may include all documents deemed necessary for the thorough review of the project for compliance with applicable regulations.

(d) Petitions shall be reviewed and approved, approved with conditions or denied within 30 days of submittal. Petitions for site plan review may be submitted simultaneously with other zoning petitions. However, other zoning petitions may not be presented to the Planning Advisory Board or City Council prior to receiving site plan approval, when required. The City Council shall have final review and approval authority for site plans submitted with petitions to rezone to PD, Planned Development.

(e) No certificate of occupancy or final building inspection approval, for any property described in this division, shall be issued until such construction has been found to be in conformity with the approved plans.

(f) **Standards for review.** The purpose of site plan review is to:

1. Determine the impact of the project on level of service standards and consistency with the comprehensive plan, code and applicable regulations.
2. Encourage logic, imagination, innovation and variety in the design process.
3. Make certain that the proposed development is compatible with its surrounding area.
4. Ensure appropriate planning and to require the necessary
improvements with respect to:

a. Vehicular entry and exit drives.

b. On-site vehicular circulation.

c. Accessways for emergency and service vehicles.

d. The impact of traffic generated by the project on traffic patterns and volumes on adjoining and nearby streets and the adequacy of such streets to accommodate such traffic.

e. The adequacy of public utilities.

f. The adequacy of buffers between the project and adjoining dissimilar uses.

g. Off-site improvements necessitated by the traffic or other aspects of the proposed project.

(g) Site plan with deviations. Where a site plan complies with the zoning requirements relative to density, permitted and conditional uses and is consistent with the comprehensive plan but departs from the zoning district's dimensional requirements, the site plan may be forwarded to the City Council for approval of a site plan with deviations. As part of the site plan with deviation approval, the City Council may grant conditional use permit approval provided that the proposed development meets the standards for conditional use permit approval.

(1) Procedures and notice. Following the completion and administrative review of a site plan pursuant to this section, the petitioner may submit a petition for a site plan with deviations which shall be reviewed according to the following procedures.

a. The application and required exhibits submitted pursuant to this division shall be reviewed as to form and informational content.

b. A recommendation shall be prepared and presented with the applicant's petition to the planning advisory board at a public hearing, within 30 days of receipt of a complete petition.

c. Notice of the public hearing shall be published once in a newspaper of general circulation at least 15 days prior to the public hearing.

d. The City Manager shall notify owners, as they appear in the tax collector’s tax rolls, of property located within 500 feet of the outer limit of the property described in the petition, by regular mail at least 14 days prior to the meeting of the Planning Advisory Board at which the petition is to be considered. However, failure to notify all owners of property located within 500 feet by mail through inadvertence will not render the hearing void as long as other public notice requirements have been met.

e. The City Council shall hear the petition, in
accordance with procedures for quasi-judicial proceedings, and take final action by resolution. At the public hearing the City Council shall consider the staff report, the recommendations of the Planning Advisory Board, any other relevant testimony and evidence and review the petition according to the standards for approval.

(2) Standards for approval. Petitions for site plans with deviations shall be reviewed for consistency with the following standards:

a. Land uses and densities within the development shall be consistent with the permitted and conditional uses in the zoning district. Conditional uses approved as part of this plan approval shall comply with the standards for approval in Section 46-34.

b. The development shall comply with applicable City plans and planning policies, and shall have a beneficial effect both upon the area of the City in which it is proposed to be established and upon the City as a whole.

c. The total land area within the development and the area devoted to each functional portion of the development shall be adequate to serve its intended purpose.

d. Streets, utilities, drainage facilities, recreation areas, building heights, sizes and yards, and vehicular parking and loading facilities shall be appropriate for the particular use involved.

e. Visual character and community amenities shall be equal or better in quality than that required by the development standards for the district.

f. Areas proposed for common ownership shall be subject to a reliable and continuing maintenance guarantee.

g. Deviations shall be clearly delineated in the petition and shall be the minimum required to achieve the goals of the project and comply with these standards.

h. The proposed development is consistent with the comprehensive plan.

(3) Time limits. The following time limitations shall apply to site plans with deviations:

a. Upon the effective date of a resolution approving a site plan with deviations, construction shall commence within 48 months. "Construction," for purposes of this section, shall mean obtaining a building permit for a structure or structures authorized in the approved consolidated development plan and initiating substantial site and structural improvements, not including land clearing, land filling and soil compaction.
b. The City Manager may grant a 1-year extension of the commencement date upon a determination that plans have been submitted for building permit review, prior to the commencement date, which substantially match the approved site plan documents. Thereafter, the City Council, by resolution, may grant a 1-year extension of the commencement date upon a determination that a good faith effort to commence construction has been made.

(4) Amendments. Minor changes to the site plan with deviations approved by City Council may be approved administratively provided that these changes meet code, comply with the conditions imposed by City Council and do not consist of increases in floor area of greater than 10%. Minor changes cannot increase or extend the aspect of the project that deviates from the code.

(a) Plan approval required for certain developments; exemptions.

(1) Any development within the city that occupies 5 or more acres of land, including areas which are covered by water or mangrove areas, or that occupies or is proposed to occupy property that is zoned HC highway commercial, or PD planned development but intended to accommodate HC uses, or PD but for which a specific development plan has not been approved, shall be presumed to cause a significant impact upon the city and shall require a general development and site plan (GESP) review and approval in addition to the requirements stated elsewhere in the land development code. No building permit shall be issued for a development of significant impact until a general development and site plan has been approved and until the final plans have been reviewed and approved as being in compliance with the approved general development and site plan.

(2) The following exemptions may be made from general development and site plan requirements:

a. Single-family and 2-family dwellings. The lawful construction, alteration or occupancy of a single or 2-family dwelling on a lot on which there exists no other building or use are exempt from the general development and site plan requirements of this land development code, except where such use is proposed to be located in an area designated as conservation/limited development in the city’s adopted comprehensive plan.

b. Alterations or additions to existing development. Alterations or additions to existing developments that are defined by this land development code as developments of significant impact may be approved administratively, provided such work does not exceed 10 percent of the gross floor area of all buildings within the development.

(b) Method of approval.

(1) If, subsequent to the review, comments and discussion regarding the general development and site plan, and of such modifications as the developer may make to it, the planning advisory board and
the city manager are in agreement concerning the approval or disapproval of the general development and site plan, then the city manager shall approve or disapprove the general development and site plan. If disapproved, the city manager shall inform the developer in writing of the reason for the disapproval and the action necessary to procure approval.

2. If the recommendation of the planning advisory board disagrees with the intention of the city manager to either approve or disapprove the general development and site plan, then the city manager shall so inform the board. The planning advisory board and the city manager shall then submit, in writing, their individual recommendations to the city council. Final authority to approve or disapprove the general development and site plan in this case shall rest with the city council. If the planning advisory board recommends changes to any aspect of the general development and site plan application and the petitioner concurs with the modifications, all recommended changes shall be reflected on the plans submitted to the city council. The city council public hearing date may be delayed to ensure that all plans accurately reflect the planning advisory board's recommended modifications. In cases when the petitioner does not concur with the recommended changes, the plans shall be forwarded to city council as originally prepared by the petitioner. Staff shall provide city council a detailed itemization of the planning advisory board's recommended changes. If the planning advisory board takes action on a general development and site plan application without recommending modifications to the plans, the exact same plans shall be forwarded to the city council without modification.

3. If the general development and site plan is disapproved by the city manager, and the developer declines to make the plan modifications recommended by the city manager, the developer may petition the city council for a review and determination of whether or not the correct decision was made, and, if not, for a corrected decision. In this event, the city council, after receiving copies of all general development and site plan exhibits, staff comments and recommendations, and a recommendation from the planning advisory board at a regularly scheduled meeting, shall either affirm or overrule the decision of the city manager and, if overruled, shall render a decision.

Review and approval procedure.

1. Initially, a general development and site plan is presented as a generalized site plan which indicates the basic or general configuration of building masses, vehicular circulation and off-street parking areas, and landscaped open spaces, and is supported by preliminary information as to utilities, water management, traffic control facilities and the like.

2. Applications for general development and site plan approval may be obtained at city hall. Prior to completion of the general development and site plan application, a preapplication conference should be held with the city manager. The applicant is encouraged to submit a tentative land use sketch or schematic plan for review and to obtain information on any projected plans, programs or other matters that may affect the proposed development.

3. Completed applications shall be submitted to the city manager, along with the required fee and exhibits. The following exhibits
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shall be prepared by a registered surveyor, engineer, architect,
professional land planner, landscape architect, economist or
attorney as may be appropriate. All required plans or maps shall
show the title of the project, the name of the project planner or
designer, scale, north arrow and date.

a. Proof of ownership. Proof of ownership, which may consist of
a copy of a deed, certificate of ownership from an abstract
company, or other acceptable instrument.

b. Letter of authorization. A letter of authorization
officially submitting the proposal for approval, signed by
the developer or the developer’s authorized representative.
If submitted by other than the current owner of the
property, the letter shall include or be accompanied by
satisfactory evidence of the existence of a purchase or
lease agreement or other instrument, so as to ensure that
the current owner is in agreement with the development as
proposed. If the owner of the property in question does not
represent themselves at the necessary meeting, the owner must
provide a letter which authorizes another person to do so.

c. Legal description. A written legal description of the total
site proposed for development. The legal description shall
include the name, plat book and page number of any recorded
subdivision comprising all or part of the site. Where the
site is not located in a recorded subdivision, the legal
description shall be by metes and bounds.

d. Covenants. A recitation of all covenants, both existing and
proposed, to run with the land.

e. PD development criteria. For properties to be developed
under the PD planned development provisions of this land
development code, a statement of proposed development
criteria and standards, which shall accompany the proposed
development plan.

f. Vicinity map. A map labeled General Vicinity Map, drawn to
scale, showing the relationship of the proposed development
to the surrounding neighborhood within at least 1 mile.

g. Existing conditions map. A map labeled Existing Conditions,
drawn to an appropriate scale, showing present conditions,
where applicable, of the proposed site and peripheral area
within at least 100 feet of the property line; exact
location of boundaries of the site, including city limit
lines; streets, alleys and sidewalks, including rights-of-
way and pavement widths of streets, alleys and sidewalks;
driveway approaches, curbs and gutters, utilities,
structures, water bodies and important natural features; and
location of all on-site trees protected by the applicable
county or city protection ordinance.

h. General site plan. A plan, labeled General Site Plan, drawn
to the same scale as the map described in subsection (e)(2g)
of this section, indicating the following generalized
proposals:

1. The approximate location, size and height of all
structures.
2. Approximate location and arrangement of off-street vehicular parking areas, including access aisles, parking stalls and truck loading and unloading spaces.

3. Approximate location of landscaped or open space areas.

4. A preliminary or generalized utilities and drainage plan.

i. Typical architectural elevations.

j. Traffic circulation plan. A plan, labeled "Traffic Circulation Plan," showing all proposed internal and external means of vehicular and pedestrian circulation, if any, with existing or proposed boundary streets and sidewalks, acceleration and deceleration lanes, traffic control or channelization, the relationship between driveway cuts and median divider cross over locations, if any, service and emergency vehicle accessways, and the relationship of such proposed structures. This plan may be combined with the general site plan.

k. Additional information. A written statement containing narrative or tabulations indicating the following:

1. The name, address and telephone number of the landowner, project developer, surveyor, project representative, engineer, architect, designer, land planner, landscape architect, economist, attorney or other professionals as may be appropriate.

2. For proposed residential and transient lodging facilities, planned land uses, a tabulation of net densities, gross acreage, number of dwelling units and approximate acreage of open spaces and recreational areas.

3. For proposed nonresidential uses and planned land uses, the approximate gross and leasable square footage of floor area.

4. For all uses, tabulations of total gross acreage in the project and the percent of site coverage by all buildings.

5. A statement as to the availability and adequacy of potable water, water pressure for firefighting purposes, and sanitary sewer services.

6. A general statement covering the basic water management strategy to be employed.

7. A development schedule indicating the approximate date when construction of the project can be expected to begin and end, and, if developed in stages, designation of estimated stages and time schedules.

8. For all plans, title of the project, name of the project planner or other professional, scale, north
9. Commonly owned and used areas, and the method by which they will be managed and maintained.

10. Areas, if any, proposed to be conveyed, dedicated or reserved for public or semipublic purposes.

The city council reserves the right to require a model or other visualization before approval of a general development site plan.

4) The community development department shall review the application and required exhibits when ready and shall determine that the documents are adequate as to form and informational content. The city manager shall then review the general development and site plan with the appropriate city departments for their comments and shall prepare a report and recommendations to the planning advisory board. The city manager shall submit the report and recommendation to the planning advisory board for its consideration. The city manager shall notify owners of property located within 500 feet of the property involved in the petition, informing them of the date, time, place and reason for the public hearing. Failure to notify all owners of property located within 500 feet by mail will not render any action taken on such petition void.

5) After the approval of the general development and site plan, it may be necessary for detailed plans of the functional components to be submitted to the appropriate city department for review and approval in advance of completion of all plans and application for building permits. In those cases where intermediate level functional plans are submitted to the city, the city manager shall review such plans to determine whether such plans agree with the approved general development and site plan. In the event of any substantial variation between an intermediate stage functional plan and an approved general development and site plan, the city manager shall notify the applicant that the plan is not in agreement with the approved general development and site plan and must be changed.

6) Applications for building permits for all or part of an approved general development and site plan shall be submitted to the community development department, which shall review the final detailed plans and determine whether the plans are in substantial compliance with the approved general development and site plan. In the event of substantial compliance, the building official shall then process final plans in the usual manner. In the event of noncompliance with the approved general development and site plan, the city manager shall advise the applicant, in writing, of the specific nature of the noncompliance and of the specific changes required to secure compliance. If final plans are found by the city manager not to be in substantial compliance with the approved general development and site plan, and the developer declines to make the plan modifications recommended by the city manager, the developer may petition for a review and determination by the planning advisory board. After receiving copies of the final plan, staff comments and recommendations, the planning advisory board shall either affirm or overrule the decision of the city manager. The board's decision shall be in writing.
(7) Once approved, no further review of a general development and site plan shall be required, regardless of the number of development phases, unless the developer proposes to make significant changes to the approved general development and site plan. In the event of a significant change being made to an approved general development and site plan, a revised plan shall be submitted to the city manager and processed as if it were a new one.

(d) Guidelines for review: The purpose of the general development and site plan review is to:

(1) Encourage logic, imagination, innovation and variety in the design process.

(2) Make certain that the proposed development is compatible with its surrounding area.

(3) Ensure appropriate planning and to require the necessary improvements with respect to:

a. Vehicular entry and exit drives.

b. On-site vehicular circulation.

c. Accessways for emergency and service vehicles.

d. The impact of traffic generated by the project on traffic patterns and volumes on adjoining and nearby streets and the adequacy of such streets to accommodate such traffic.

e. The adequacy of public utilities.

f. The adequacy of buffers between the project and adjoining dissimilar uses.

g. Off-site improvements necessitated by the traffic or other aspects of the proposed project.

Section 3. That Section 58-803 of the Land Development Regulations 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. 58-803. Application for PD zoning.

Applicants seeking to rezone lands to the PD district shall make the same submittals as required under the provisions of chapter 46 relating to general development and site plan review for developments of significant impact, in addition to the rezoning petition process and as required for site plan review. The applicant shall pay the petition fee for change of zone to PD.

Section 4. That Section 58-807 of the Land Development Regulations 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. 58-807. Changes in development plan.

Any proposed significant change of an approved development plan.
submitted pursuant to this division shall be submitted and processed in the same manner as an original application for establishment of a PD district. A significant change shall consist of an increase of total floor area of greater than 10% above that approved by City Council, any increase in residential density, any addition of permitted or conditional uses and any substantial changes to traffic circulation, landscaping or parking. Changes that are not significant by these standards may require design review and site plan review.

Section 5. 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 6. 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 7. 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 8. This ordinance shall take effect immediately upon adoption at second reading.

APPROVED AT FIRST READING THIS 19TH DAY OF NOVEMBER, 2008.


Bill Barnett, Mayor

Attest:
Tara A. Norman, City Clerk

Approved as to form and legality:
Robert D. Pritt, City Attorney

Date filed with City Clerk: 12-29-08