

ORDINANCE 06-11242

AN ORDINANCE GRANTING REZONE PETITION 06-R2 FOR PROPERTY LOCATED AT 300, 340 AND 350 FIFTH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN, IN ORDER TO PERMIT REZONING FROM C1-A COMMERCIAL CORE, R3-12 MULTI-FAMILY AND "PD" PLANNED DEVELOPMENT TO "PD" FOR THE ENTIRE PARCEL OF APPROXIMATELY 1.84 ACRES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

WHEREAS, Reddick Development Group, owner (*) of property at 300, 340 and 350 Fifth Avenue South, has petitioned to change the zoning from 1-A Commercial Core, R3-12 Multi-Family and "PD" Planned Development to "PD", in order to consolidate three separate zoning districts for the development of a mixed-use project; and

WHEREAS, John M. Passidomo, Esq., has been authorized by the owner(s) as agent for this petition; and

WHEREAS, following an advertised public hearing, the Planning Advisory Board considered the public input, staff recommendations and criteria in the Code and has recommended by a vote of 6 to 0 that Rezone Petition 06-R2 be approved (with conditions); and

WHEREAS, after considering the recommendation of the Planning Advisory Board and City staff, following a public hearing on the subject, and providing the petitioner, staff and the public an opportunity to present testimony and evidence, the City Council has determined that the petition should be granted;

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

Section 1. That Rezone Petition 06-R2 is hereby granted, for property at 300, 340 and 350 Fifth Avenue South, more particularly described as follows:

See:

Attachment A (Landmark Building, 300 Fifth Avenue South),
Attachment B (Belair Building, 340 Fifth Avenue South) and
Attachment C (Commerce Building, 350 Fifth Avenue South)

Section 2. That the Zoning Atlas of the City of Naples shall be amended to reflect said rezoning.

Section 3. 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 4. That all sections or parts of sections of the Code of Municipal Ordinances, 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or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.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 5. This ordinance shall take effect immediately upon adoption at second reading.

APPROVED AT FIRST READING THIS 17TH DAY OF MAY, 2006.

PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THIS 7TH DAY OF JUNE, 2006.

Bill Barnett, Mayor

Attest:

Approved as to form and legality:

Tara A. Norman, City Clerk

Robert D. Pritt, City Attorney

M:\REF\COUNCIL\ORD\2006\06-11242

Date filed with City Clerk: _____

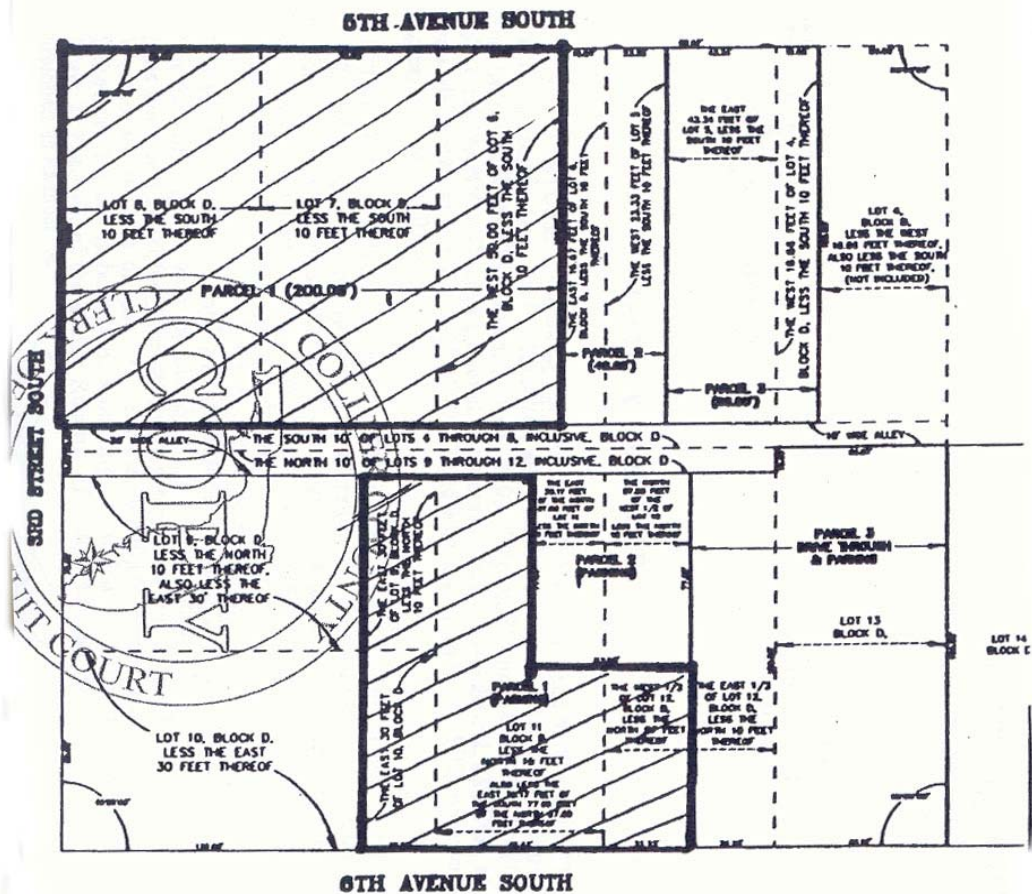
(*Note: Scrivener's error. Reddick Development Group is not owner. See Planned Development Document, Section III Project Team.)

Attachment A (Landmark Building, 300 Fifth Avenue South)

The West 50 feet of Lot 6, Plus Lot 7, 8, 11 and West one-half (1/2) of Lot 12, together with the East 30 feet of Lots 9 and 10, less the South 10 feet of Lots 6, 7, and 8, and less the North 10 feet of Lots 9, 11 and 12, also less the East 30.17 feet of the South 77.00 feet of the North 87.00 feet of said Lot 11, and also less South 77.00 feet of the North 87.00 feet of the West one-half (1/2) of said Lot 12, all part of Block "D", Lakeview Terrace Subdivision, according the Plat thereof, recorded in Plat Book 2, Page 90, of the Public Records of Collier County Florida. See sketch attached as Exhibit "A."

The above-described property is commonly known as The Landmark Building

Exhibit A (to Attachment A)

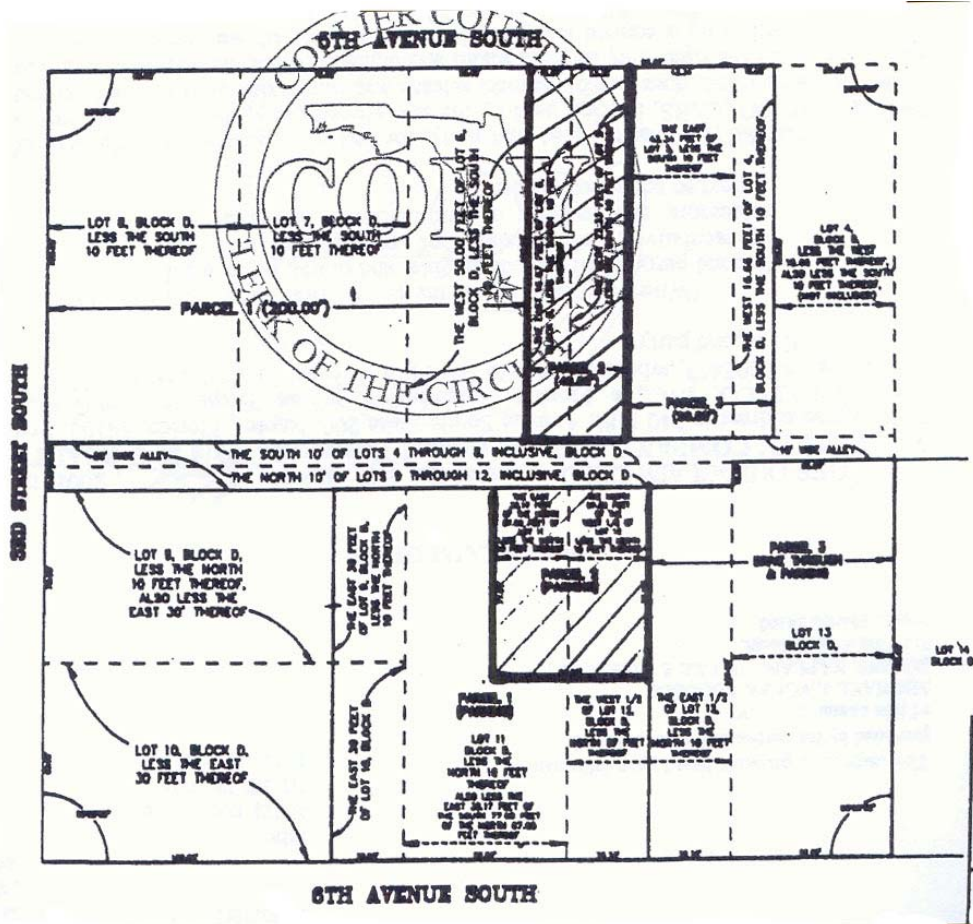


Attachment B (Belair Building, 340 Fifth Avenue South)

The West 23.33 feet of Lot 5 and the East 16.67 feet of Lot 6, less the South 10 feet thereof, together with the East 30.17 feet of the North 87.00 feet of Lot 11, Less the North 10.00 feet thereof, also together with the North 87.00 feet of the West one-half (1/2) of Lot 12, Less the North 10.00 feet thereof, Block D, Lakeview Terrace Subdivision, according to the Plat thereof, recorded in Plat Book 2, Page 90, of the Public Records of Collier County Florida. See sketch attached as Exhibit "A."

The above-described property is commonly known as The Belair Building

Exhibit A (to Attachment B)

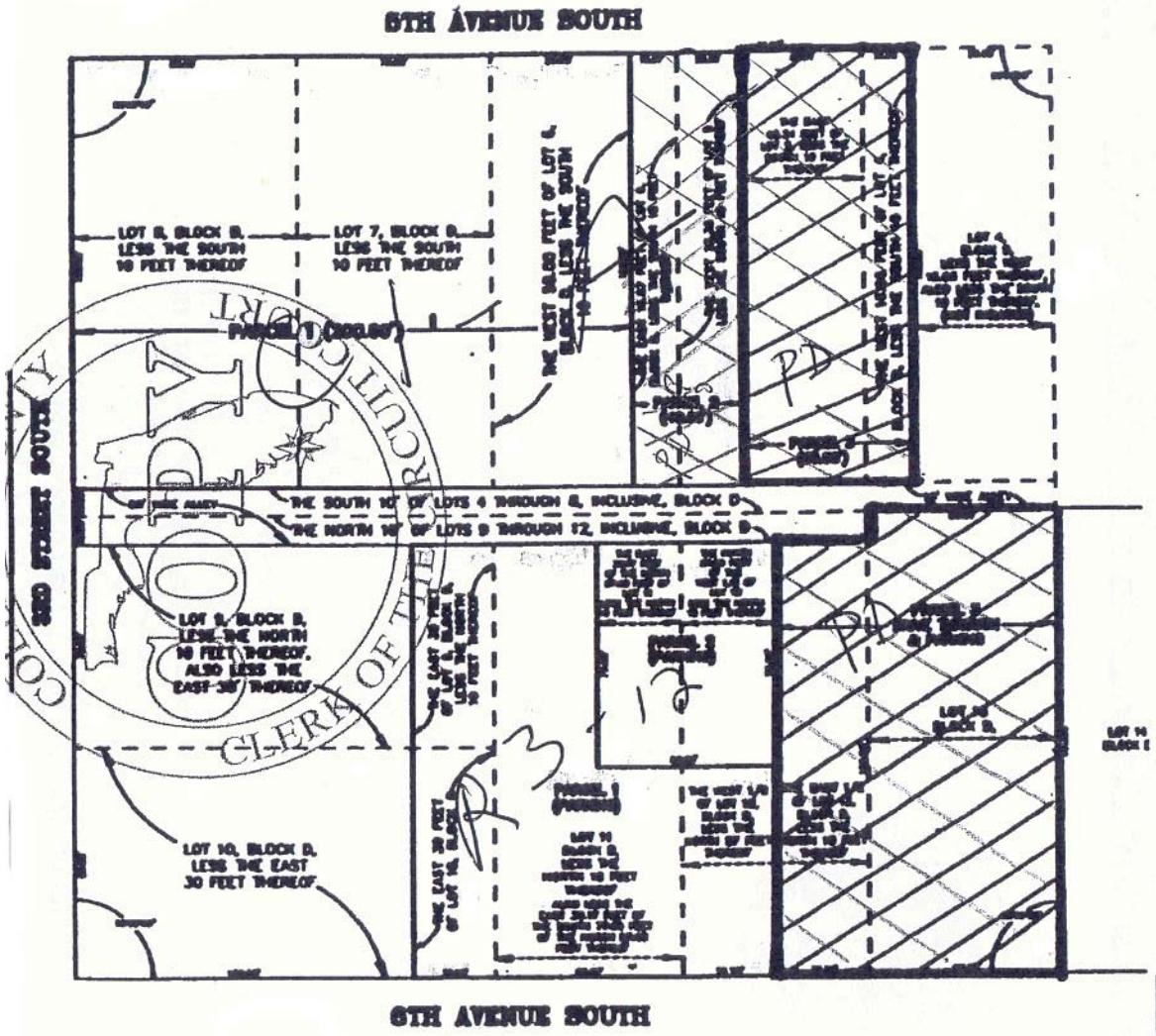


Attachment C (Commerce Building, 350 Fifth Avenue South)

The East one-half (1/2) of Lot 12, less the North 10.00 feet thereof, and all of Lot 13, Block D, Lakeview Terrace, and the West 16.66 feet of Lot 4, and the East 43.34 feet of Lot 5, less the South 10 feet thereof, Block D, Lakeview Terrace according to the Plat thereof, recorded in Plat Book 2, Page 90, of the Public Records of Collier County Florida. See sketch attached as Exhibit "A."

The above-described property is commonly known as The Commerce Building.

Exhibit A (to Attachment C)



PLANNED DEVELOPMENT DOCUMENT

FOR

**ARAGON ON 6TH AVENUE SOUTH,
A CONDOMINIUM**

**LANDMARK BUILDING
BELAIR BUILDING
AND
COMMERCE BUILDING**

DATE OF SUBMITTAL: MARCH 13, 2006
PREPARED BY: CHEFFY PASSIDOMO
WILSON & JOHNSON, LLP

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SECTION I

LIST OF EXHIBITS

TOTAL TRACT BOUNDARY

VICINITY MAP

ARCHITECT'S ELEVATIONS

SITE PLAN

SECTION II (PLANNED DEVELOPMENT PAGE 3)

LEGAL DESCRIPTION

SEE ATTACHED EXHIBITS "A" ("LANDMARK BUILDING"/300 FIFTH AVENUE SOUTH), "B" ("BELAIR BUILDING"/340 FIFTH AVENUE SOUTH) AND "C" ("COMMERCE BUILDING"/350 FIFTH AVENUE SOUTH) WHICH ARE INCORPORATED HEREIN BY REFERENCE (COLLECTIVELY, THE "PROPERTY" OR THE "LAND").

SECTION III (PLANNED DEVELOPMENT PAGE 4)

PROJECT TEAM

LAND OWNER: THE LANDMARK BUILDING (300 FIFTH AVENUE SOUTH)
M-P REALTY, LLC
340 5TH AVENUE SOUTH
NAPLES, FLORIDA 34102
ATTN: MICHAEL MEFTAH, M.D.
TELEPHONE: 434-6446

THE BELAIR BUILDING (340 FIFTH AVENUE SOUTH)
M-P REALTY, LLC
340 5TH AVENUE SOUTH
NAPLES, FLORIDA 34102
ATTN: MICHAEL MEFTAH, M.D.
TELEPHONE: 434-6446

THE COMMERCE BUILDING (350 FIFTH AVENUE SOUTH)
REINCO, INC.
340 5TH AVENUE SOUTH
NAPLES, FLORIDA 34102
ATTN: MICHAEL MEFTAH, M.D.
TELEPHONE: 434-6446

PETITIONER: CONTRACT VENDEE (LAND SOUTH OF ALLEY)
REDDICK DEVELOPMENT GROUP, INC.
P. O. BOX 960
NAPLES, FLORIDA 34106-0960
ATTN: PAIGE REDDICK
TELEPHONE: 430-2708

ATTORNEY: JOHN M. PASSIDOMO
CHEFFY PASSIDOMO
WILSON & JOHNSON, LLP
821 FIFTH AVENUE SOUTH
NAPLES, FLORIDA 34102
TELEPHONE: 436-1529

ARCHITECT: WILLIAM R. REDDICK, JR.
REDDICK DEVELOPMENT GROUP, INC.
P. O. BOX 960
NAPLES, FLORIDA 34106-0960
TELEPHONE: 430-2708

SECTION IV (PLANNED DEVELOPMENT PAGE 5)

PLANNED DEVELOPMENT (PD) CRITERIA

- 1. LAND USES WITHIN THE DEVELOPMENT SHALL BE APPROPRIATE IN THEIR PROPOSED LOCATION, IN THEIR RELATIONSHIPS TO EACH OTHER, AND IN THEIR RELATIONSHIPS WITH USES AND ACTIVITIES ON ADJACENT AND NEARBY PROPERTIES.**

Land uses will function as part of an integrated plan with the proposed multi-family residential units serving as a buffer between the commercial uses on Fifth Avenue and the single and multi-family residential uses on Sixth Avenue.

- 2. 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.**

THE DEVELOPMENT WILL (i) PROMOTE A UNIFORM LANDSCAPE, STREETScape AND ARCHITECTURAL DESIGN ALONG SIXTH AVENUE IN PLACE OF THE CURRENTLY EXISTING ASPHALT OPEN SURFACE PARKING LOT, AND (ii) FULFILL THE PURPOSES OF THE DOWNTOWN MIXED USE DISTRICT BY ENCOURAGING REDEVELOPMENT, IMPROVING AESTHETICS AND PHYSICAL APPEARANCE, AND PROVIDING FOR A PROSPEROUS, VIABLE DOWNTOWN, AND THE FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT BY ENCOURAGING AND DIRECTING DEVELOPMENT WITHIN THE FIFTH AVENUE SOUTH DISTRICT.

- 3. 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.**

The development proposed under the accompanying general development and site plan will have the density of 12 units per acre authorized by the underlying R3-12 Multi-Family Zoning District on the property.

- 4. STREETS; UTILITIES; DRAINAGE FACILITIES; RECREATION AREAS; BUILDING HEIGHTS, SIZES AND YARDS; AND VEHICULAR PARKING AND LOADING FACILITIES SHALL BE APPROPRIATE FOR THE PARTICULAR USE OR USES INVOLVED, AND SHALL EQUAL OR EXCEED THE LEVEL OF DESIGN AND CONSTRUCTION QUALITY REQUIRED OF SIMILAR LAND DEVELOPMENT ELSEWHERE IN THE CITY.**

All design and construction standards will be met pursuant to the unanimous approvals already issued for the project by the city's Staff Action Committee.

PLANNED DEVELOPMENT PAGE 6

5. **VISUAL CHARACTER AND COMMUNITY AMENITIES SHALL BE EQUAL OR BETTER IN QUALITY THAN THAT REQUIRED BY STANDARD ZONING DISTRICTS FOR SIMILAR DEVELOPMENT.**

Quality of construction and finish materials will be similar to that of redeveloped properties in the Fifth Avenue South Special Overlay District. The quality and number of amenities proposed for the development is similar to that commonly found in the R3-12 Multi-Family District.

6. **OPEN SPACE SHALL BE ADEQUATE FOR THE TYPE OF DEVELOPMENT AND THE POPULATION DENSITIES PROPOSED.**

All open space, lot coverage, density, and landscaping standards will be met or exceeded.

7. **AREAS PROPOSED FOR COMMON OWNERSHIP SHALL BE SUBJECT TO A RELIABLE AND CONTINUING MAINTENANCE GUARANTEE.**

The residential condominium will provide for reliable and continuing maintenance guarantees for commonly owned property.

8. **IN THE CASE OF DEVELOPMENTS WHICH ARE TO BE CONSTRUCTED IN SEVERAL UNITS, THE PROPOSED UNITS SHALL BE SHOWN ON THE OVERALL DEVELOPMENT PLAN. THE PROPOSED CONSTRUCTION UNITS SHALL INDIVIDUALLY COMPLY WITH THE STANDARD SET FORTH IN THIS SECTION IN ORDER THAT, IF FOR ANY REASON CONSTRUCTION CEASES PRIOR TO COMPLETION OF THE ENTIRE PLANNED DEVELOPMENT, THE RESULTING PARTIALLY COMPLETE PROJECT WILL ADEQUATELY SERVE ITS PURCHASERS AND OCCUPANTS AND WILL NOT CAUSE A GENERAL PUBLIC PROBLEM.**

REQUIRED INFRASTRUCTURE WILL BE CONSTRUCTED IN ONE PHASE.

SECTION V (PLANNED DEVELOPMENT PAGE 7)**DEVELOPMENT CRITERIA AND STANDARDS**

FIFTH AVENUE SOUTH FRONTAGE LINE DISTRICT. THE PART OF THE LAND WHICH INCLUDES PROPERTIES LOCATED ON THE FIFTH AVENUE SOUTH FRONTAGE LINE AS THAT TERM IS DEFINED IN SEC. 102-1091 OF THE NAPLES CODE, AND NORTH OF THE BISECTING EAST-WEST ALLEY ON THE LAND, SHALL HAVE ALL OF THE PERMITTED AND CONDITIONAL USES, DIMENSIONAL STANDARDS AND PERFORMANCE CRITERIA CONTAINED IN THE C1-A COMMERCIAL CORE DISTRICT AND FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT AS DESCRIBED IN THE NAPLES CODE AS OF THE EFFECTIVE DATE OF THIS PLANNED DEVELOPMENT AS IF INCORPORATED VERBATIM HEREIN AND MADE A PART HEREOF. 34 PARKING SPACES FOR THE LANDMARK BUILDING, 14 PARKING SPACES FOR THE BELAIR BUILDING, AND 32 PARKING SPACES FOR THE COMMERCE BUILDING WILL BE LOCATED IN THE SIXTH AVENUE SOUTH NON-FRONTAGE LINE DISTRICT (AS THAT TERM IS HEREAFTER DEFINED). BY APPROVING THIS PLANNED DEVELOPMENT, THE CITY ACKNOWLEDGES AND VERIFIES THAT THE FOREGOING 80 PARKING SPACES WHEN COMBINED WITH THE NUMBER OF PARKING SPACES CURRENTLY EXISTING ON THE NORTH SIDE OF THE ALLEY ARE SUFFICIENT TO MEET ALL OF THE LAND OWNERS' PARKING REQUIREMENTS UNDER THE NAPLES CODE FOR THE LANDMARK BUILDING, THE BELAIR BUILDING AND THE COMMERCE BUILDING.

SIXTH AVENUE SOUTH NON-FRONTAGE LINE DISTRICT. THE PART OF THE LAND WHICH INCLUDES PROPERTIES NOT LOCATED ON THE FIFTH AVENUE SOUTH FRONTAGE LINE AS THAT TERM IS DEFINED IN SEC. 102-1091 OF THE NAPLES CODE, BUT LOCATED SOUTH OF THE BISECTING EAST-WEST ALLEY ON THE LAND, SHALL HAVE ALL OF THE PERMITTED AND CONDITIONAL USES, DIMENSIONAL STANDARDS AND PERFORMANCE CRITERIA CONTAINED IN THE R3-12 MULTI-FAMILY DISTRICT AND FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT AS DESCRIBED IN THE NAPLES CODE AS OF THE EFFECTIVE DATE OF THIS PLANNED DEVELOPMENT AS IF INCORPORATED VERBATIM HEREIN AND MADE A PART HEREOF, INCLUDING, WITHOUT LIMITATION, 10 MULTI-FAMILY RESIDENTIAL UNITS, DRIVE UP BANKING FACILITIES AND 34 PARKING SPACES FOR THE LANDMARK BUILDING, 14 PARKING SPACES FOR THE BELAIR BUILDING, AND 32 PARKING SPACES FOR THE COMMERCE BUILDING; PROVIDED, HOWEVER, THAT THE MINIMUM REQUIRED SETBACK ALONG THE ALLEY SHALL BE EIGHTEEN FEET (18') AND THE MINIMUM REQUIRED SETBACK ALONG SIXTH AVENUE SOUTH SHALL BE ZERO FOR THE FIRST STORY FACADE AND TEN FEET (10') FOR THE SECOND AND THIRD STORY FACADES, AND THE MAXIMUM HEIGHT SHALL BE LIMITED TO THREE STORIES AND 42 FEET, MEASURED FROM THE FIRST FLOOR FEMA ELEVATION TO THE PEAK OF THE ROOF OR THE HIGHEST POINT OF ANY APPURTENANCE ATTACHED TO THE ROOF PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY. PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY, THE OWNER OF THE LAND SHALL ENTER INTO A WRITTEN AGREEMENT WITH THE CITY, TO BE FILED WITH THE CLERK OF THE CIRCUIT COURT, WITH ENFORCEMENT RUNNING TO THE CITY, PROVIDING THAT THE LAND COMPRISING THE REQUIRED OFF-SITE PARKING FACILITIES SHALL NOT BE ENCROACHED UPON, USED, SOLD, LEASED OR CONVEYED FOR ANY PURPOSE EXCEPT IN CONJUNCTION WITH THE BUILDING OR USE WHICH THE REQUIRED OFF-SITE PARKING SERVES, SO LONG AS THE PARKING FACILITIES ARE NEEDED. AFTER THEY ACQUIRE FEE SIMPLE TITLE, THE PETITIONER IDENTIFIED HEREIN, ITS SUCCESSORS AND ASSIGNS, SHALL BE ENTITLED TO SEEK FUTURE AMENDMENTS TO THIS PLANNED DEVELOPMENT, OR OTHER LOCAL LAND USE APPROVALS, FOR THE PART OF THE LAND LOCATED IN THE SIXTH AVENUE SOUTH NON-FRONTAGE LINE DISTRICT FROM TIME TO TIME WITHOUT APPROVAL, JOINDER, OR CONSENT OF THE LAND OWNERS, THEIR SUCCESSORS OR ASSIGNS, AS LONG AS SUCH LOCAL LAND USE APPROVALS DO NOT ADVERSELY AND MATERIALLY AFFECT THE LAND OWNERS' PARKING OR ACCESS THERETO. BY APPROVING THIS PLANNED DEVELOPMENT, THE CITY ACKNOWLEDGES AND VERIFIES THAT THE SITE PLAN WHICH ACCOMPANIES THIS PLANNED DEVELOPMENT DOCUMENT COMPLIES IN EVERY RESPECT WITH THE PLANNED DEVELOPMENT DOCUMENT.

SECTION VI (PLANNED DEVELOPMENT PAGE 8)

WATER AND SEWER ADEQUACY AND AVAILABILITY

WATER AND SEWER SERVICE FOR THE PROJECT IS AVAILABLE AND WILL BE PROVIDED IN ACCORDANCE WITH ADEQUATE PUBLIC FACILITIES CRITERIA. THE PETITIONER SHALL BE RESPONSIBLE FOR THE CONSTRUCTION AND COST OF THE WATER AND SEWER FACILITIES WITHIN THE PROJECT.

SECTION VII

BASIC WATER MANAGEMENT STRATEGY

STORM RUNOFF WILL BE ATTENUATED ON SITE BY MEANS OF UNDERGROUND STORAGE FACILITIES, SUCH AS VAULTS, TANKS, PIPING AND OTHER CUSTOMARY METHODS, OR, WHERE PRACTICABLE, BY MEANS OF ABOVE GROUND RETENTION AREAS, SWALES AND HOLDING PONDS, IN ACCORDANCE WITH SOUTH FLORIDA WATER MANAGEMENT DISTRICT CRITERIA. STORM WATER QUALITY PRETREATMENT WILL BE PROVIDED ON SITE VIA BEST MANAGEMENT PRACTICES IN ACCORDANCE WITH SOUTH FLORIDA WATER MANAGEMENT DISTRICT CRITERIA.

SECTION VIII

SUPPLEMENTAL STANDARDS

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED ELSEWHERE IN THIS PLANNED DEVELOPMENT DOCUMENT, THE SUPPLEMENTAL STANDARDS CONTAINED IN §§110-31 THROUGH 110-131, INCLUSIVE, OF THE NAPLES CODE AS OF THE EFFECTIVE DATE OF THIS PLANNED DEVELOPMENT ARE INCORPORATED AND RESTATED VERBATIM HEREIN AND MADE PART HEREOF.

PLANNED DEVELOPMENT (PAGE 9)



PLANNED DEVELOPMENT (PAGE 10)

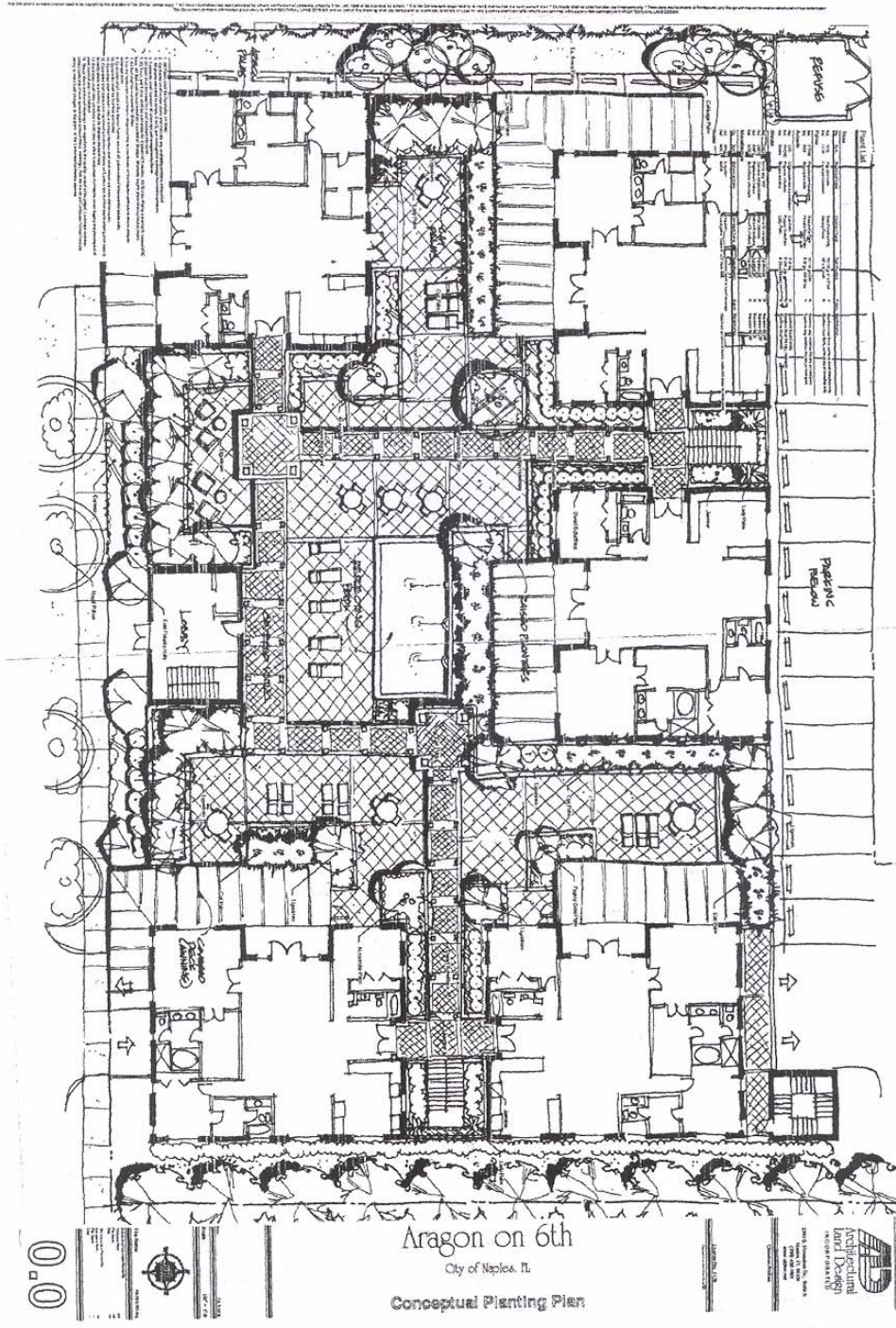


Planned Development (Page 11)



Planned Development (Page 12)

L:\05-429 Aragon on 6th\LD-Orig\05-429-00.dwg, 3/10/2008 9:34:49 AM, Christian, R001-12240 PCL5c.ac3, www.a1dnc.net, design@edinc.net



The West 50 feet of Lot 6, Plus Lot 7, 8, 11 and West one-half (1/2) of Lot 12, together with the East 30 feet of Lots 9 and 10, less the South 10 feet of Lots 6, 7, and 8, and less the North 10 feet of Lots 9, 11 and 12, also less the East 30.17 feet of the South 77.00 feet of the North 87.00 feet of said Lot 11, and also less South 77.00 feet of the North 87.00 feet of the West one-half (1/2) of said Lot 12, all part of Block "D", Lakeview Terrace Subdivision, according the Plat thereof, recorded in Plat Book 2, Page 90, of the Public Records of Collier County Florida. See sketch attached as Exhibit "A."

Exhibit A (to legal description)

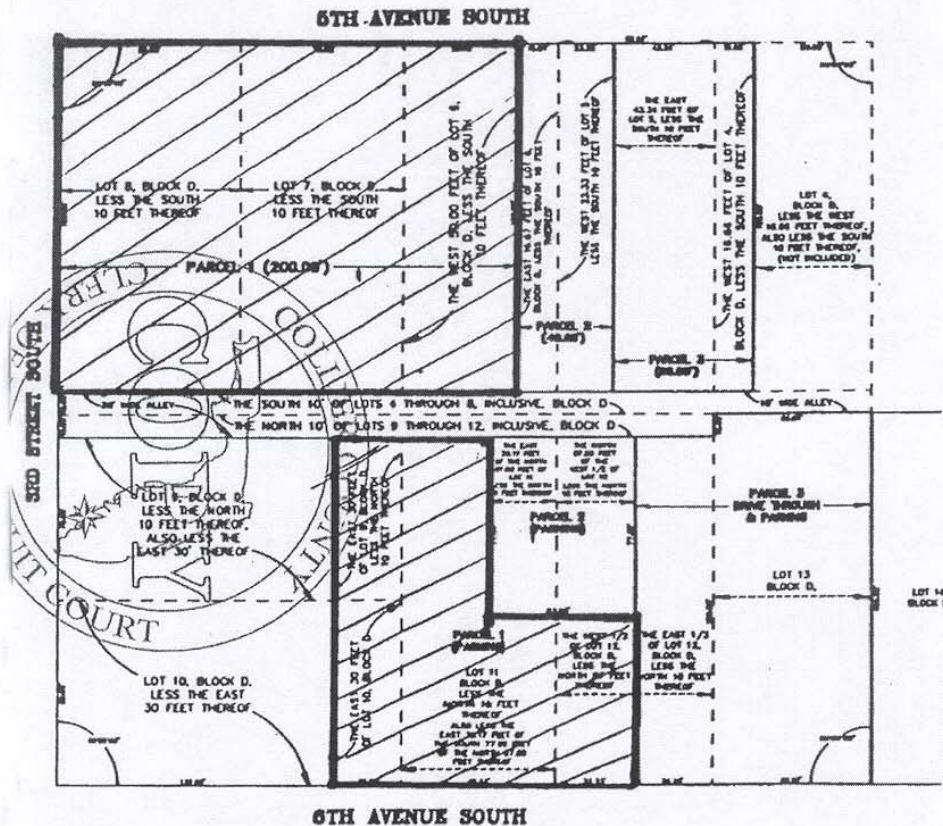


EXHIBIT A (TO PLANNED DEVELOPMENT)
 PLANNED DEVELOPMENT (PAGE 13)

The West 23.33 feet of Lot 5 and the East 16.67 feet of Lot 6, less the South 10 feet thereof, together with the East 30.17 feet of the North 87.00 feet of Lot 11, Less the North 10.00 feet thereof, also together with the North 87.00 feet of the West one-half (1/2) of Lot 12, Less the North 10.00 feet thereof, Block D, Lakeview Terrace Subdivision, according to the Plat thereof, recorded in Plat Book 2, Page 90, of the Public Records of Collier County Florida. See sketch attached as Exhibit "A."

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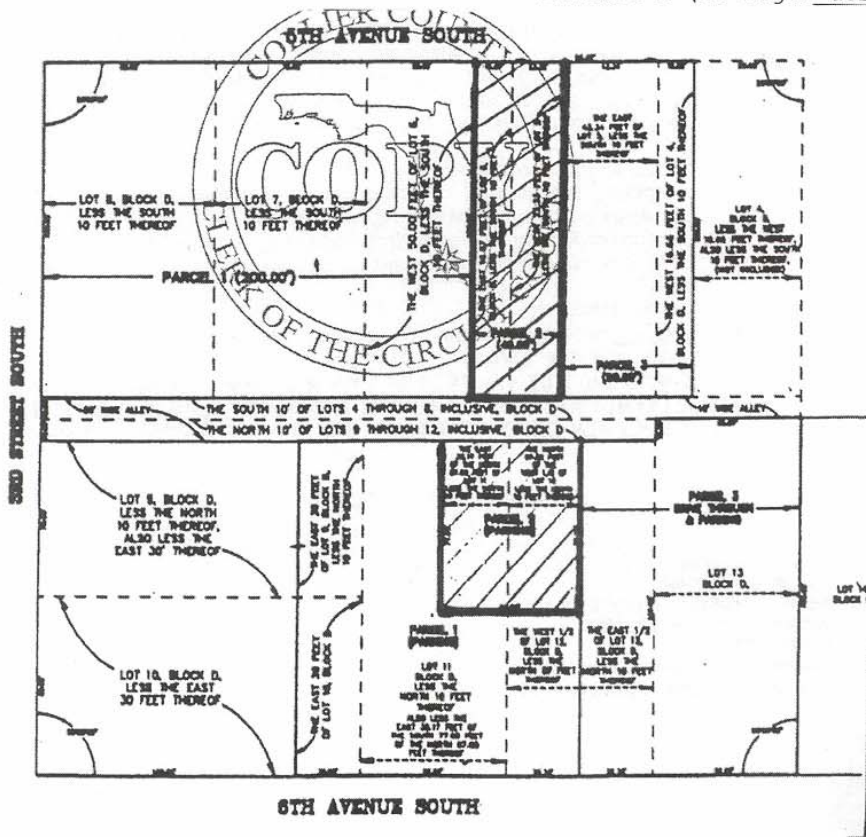


EXHIBIT B (TO PLANNED DEVELOPMENT)
PLANNED DEVELOPMENT (PAGE 14)

The East one-half (1/2) of Lot 12, less the North 10.00 feet thereof, and all of Lot 13, Block D, Lakeview Terrace, and the West 16.66 feet of Lot 4, and the East 43.34 feet of Lot 5, less the South 10 feet thereof, Block D, Lakeview Terrace according to the Plat thereof, recorded in Plat Book 2, Page 90, of the Public Records of Collier County Florida. See sketch attached as Exhibit "A."

The above-described property is commonly known as The Commerce Building.

Exhibit A (to legal description)

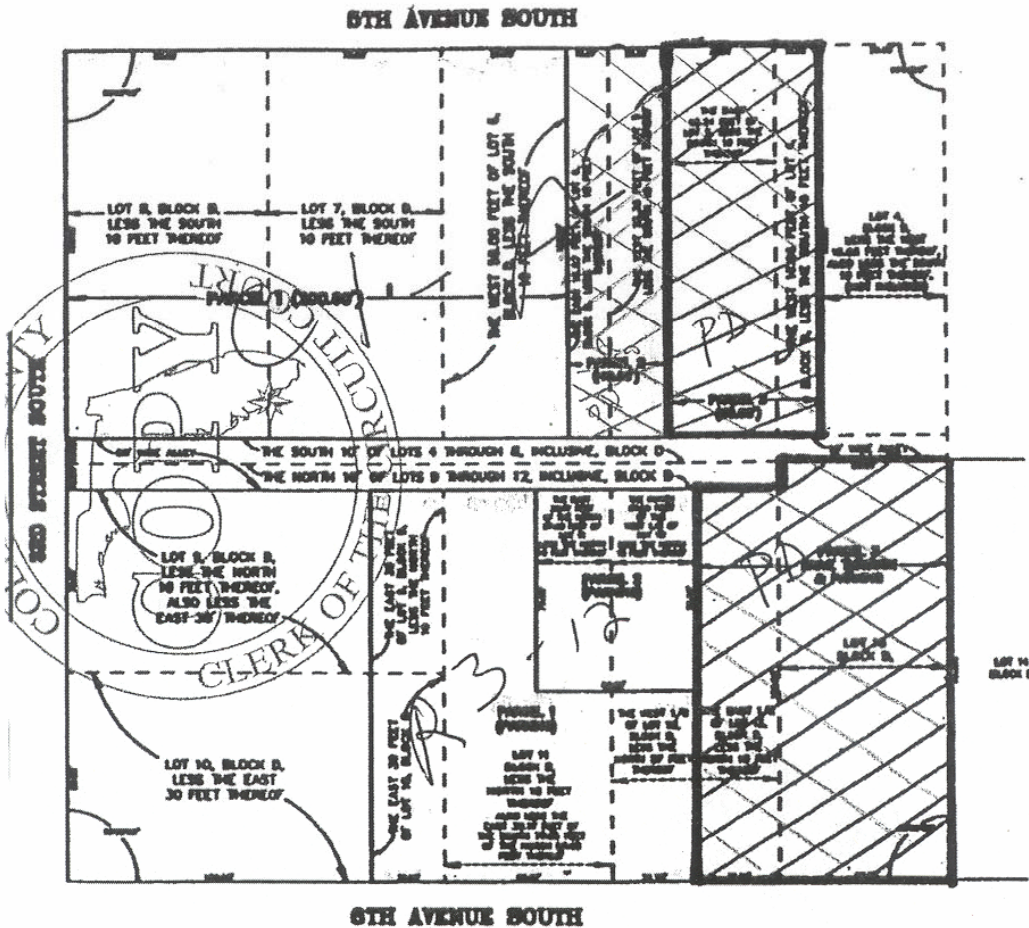


EXHIBIT C (TO PLANNED DEVELOPMENT)
PLANNED DEVELOPMENT PAGE 15