AN ORDINANCE DETERMINING REZONE PETITION 06-R5, REZONING THE BAYFRONT PLANNED DEVELOPMENT FROM "PD" PLANNED DEVELOPMENT, TO A NEW "PD" PLANNED DEVELOPMENT, IN ORDER TO PERMIT COMMERCIAL ACTIVITIES FOR EXISTING BOAT SLIPS, REPLACE AND INCREASE THE SIZE OF THE CABANA BAR, INCLUDING NEW BATHROOM FACILITIES, ADDITION OF ONE LIQUOR LICENSE, MODIFICATIONS TO PLANS FOR BUILDING 7 AND CHANGING THE HEIGHT OF BUILDING 6 FROM 40 TO 42 FEET, FOR PROPERTY LOCATED AT 401-499 BAYFRONT PLACE, MORE FULLY DESCRIBED HEREIN; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

WHEREAS, Bayfront, Inc., owner of property at 401-499 Bayfront Place, has petitioned to change the zoning from "PD" Planned Development, to a new "PD" Planned Development, in order to allow for commercial activities for existing boat slips, replace and increase the size of the Cabana Bar, including new bathroom facilities, addition of one liquor license, modifications to plans for Building 7 and changing the height of Building 6 from 40 to 42 feet; and

WHEREAS, Richard D. Yovanovich, Esq., has been authorized by the owner 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 7 to 0 that Rezone Petition 06–R5 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 the rezone of the Bayfront Planned Development from "PD" Planned Development, to a new "PD" Planned Development, is hereby approved, in order to allow for commercial activities for existing boat slips, replace and increase the size of the Cabana Bar, including new bathroom facilities, addition of one liquor license, modifications to plans for Building 7 and changing the height of Building 6 from 40 to 42 feet, for property located at 401-499 Bayfront Place, more fully described as follows:

All that part of Government Lot 8 of Section 3, Township 50 South, Range 25 East, Collier County, Florida being bounded as follows: On north by the south line of that as described in O.R. Book 761, pages 1920 and 1921, Public Records of Collier County, Florida;
On the east by the west line of that land as described in O.R. Book 761, pages 1925 and 1926, Public Records of Collier County, Florida; on the south by the north line of and easterly extension of the north line of that land as described in O.R. Book 828, pages 833 and 835, Public Records of Collier County, Florida; and,

On the west by the east right-of-way of Goodlette Road (C.R. 851).

Subject to easements and restrictions of record; containing 11.50 acre, more or less.

Section 2. That the amended Planned Development Narrative is hereby approved, a copy of which is attached hereto and made a part hereof as Exhibit "A".

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 1ST DAY OF NOVEMBER, 2006.


____________________________  ____________________________
Bill Barnett, Mayor              Robert D. Pritt, City Attorney

Attest:  Approved as to form and legality:

____________________________  ____________________________
Tara A. Norman, City Clerk      Robert D. Pritt, City Attorney

M:\REF\COUNCIL\ORD\2006\06-11418

Date filed with City Clerk: ____________________________
EXHIBIT A

PLANNED DEVELOPMENT NARRATIVE

This Planned Development Narrative is intended to amend the previously approved Planned Development Narrative dated February 12, 1996, and the Amended Planned Development Narrative dated November 17, 2004 August 14, 2006. The purpose of this amendment is to bring the site plan into conformance with:

1) conditions of the final City Council Ordinance 97-7959, as amended;
2) marketing studies performed by Owner subsequent to original design and approval;
3) design development studies performed by architects and land planners.

Where possible, every effort has been made to assure that this application conforms to the conditions and requirements of the original application and ordinance, as amended.

There are four proposed revisions to the last amendment, original approval, which required this amendment. These changes are:

A) Increase the number of residential units in Building 6 from three to six units; and
B) Add a pneumatic automatic teller along the south side of Building 7.

A) Clarify that the boat slips can be sold or rented to non-residents and to charter boats;
B) Increase the number of liquor licenses from six to seven for a new commercial establishment in existing commercial space; and
C) Replacement of the existing Cabana Bar (increase of 650 SF in total floor area) with new bathroom facilities adjacent (landward). See Exhibit “B-1” attached hereto and made a part hereof.

D) The mixed-used Building 7 is being revised as follows:
   - Deletion of the below grade parking area (9,000 SF). Grade parking will be revised to 31 spaces. (See attached site plan.)
   - 14 residential condominiums of reduced individual floor area and 7,142 square feet of ground floor commercial area. (See attached Exhibit “A”.)

E) Building 6 and Building 7 will be constructed to a maximum of 42 feet in building height.

Statement of Proposed Development criteria and standards:

Setbacks for principal structures:
Front setback: 25’ – Fountain may encroach 15’ into front setback
Side and rear yard setback (Principal Structures): 20’
Side and rear yard setback (Parking Structures): 25’
Waterfront setback: 25’

Parking and drives: Designed and constructed in accordance with Development Standards of the City of Naples.
Landscape: Designed and constructed in accordance with the accompanying Landscape Plan, and the Development Standards of the City of Naples. The accompanying Landscape Plan for the green space along Goodlette Road requires the relocation of existing Royal Palm trees along the parking garage and the removal of existing canopy trees (black olive). The Royal Palms will be relocated to align with new and existing structural columns of the revised parking garage west elevation. The canopy trees will be replaced with pink Ixora, Schefflera and Bougainvillea, visually softening the lower portion of the parking garage elevation, without obscuring from view the enhanced 2-story portion of the garage and the new water fountain and trellis structure.

The Landscape Plan requires a variance with respect to Section 102-949, Landscape Standards for Goodlette-Frank Road, Development Standards for the City of Naples and this PD shall serve as the approval of the variance.

Statement of Design Concept:

The upper floors of the buildings will be office space and residential units positioned to take advantage of river views. The buildings will be designed with a variety of sloped and gabled roofs, parapets, domes and towers, porches, balconies, terraces and arcades. The style of architecture is influenced by the tropical character of early buildings in South Florida and the Caribbean and the variety of massing and architectural features will create a pedestrian scale sympathetic to Naples.

The concept for this development evolved out of the 41-10 corridor planning process which identified this parcel as a key development opportunity for the city. Situated at the southern entrance to Naples, this development is highly visible across the Gordon River from the US 41 bridge. The plan recommended and the city council endorsed in the final ordinance, extending 3rd Avenue South through the Grand Central Station shopping center to connect with Goodlette Road. This new east west linkage will greatly improve the visibility and accessibility of both Grand Central Station and this development and tie the Gordon River waterfront into the city. The 41-10 Corridor Study is an ongoing planning effort. Part of the next phase of work will be traffic study of the recommended road changes including 3rd Avenue South. The traffic light at the current entrance to Grand Central Station on Goodlette Road will be moved north to the location of the new intersection with 3rd. The traffic engineering necessary for this light relocation will be part of the scope of work sponsored by the City.

Site Plan:

The proposed General Site Plan attached hereto and incorporated herein, prepared by R. Scott Akins, Architect, LLC, dated October 9, 2006 prepared by Coastal Engineering Consultants, and dated April, 2002 shall be the approved site plan. This plan assumes Third Avenue is extended through to Goodlette Road and the signalized intersection is moved north of its current location. With this arrangement this project becomes an integral extension of the city and is at the eastern termination of 3rd Avenue. Flanked with three story retail/office mixed use buildings, 3rd Avenue can become a continuous pedestrian street linking across Goodlette, 10th and 41 to the heart of Naples.
Legal Description

All that part of Government Lot 8 of Section 3, Township 50 South, Range 25 East, Collier County, Florida being bounded as follows: On north by the south line of that as described in O.R. Book 761, pages 1925 and 1926, Public Records of Collier County, Florida; On the south by the north line of and easterly extension of the north line of that land as described in O.R. Book 828 and 835, Public Records of Collier County, Florida; and

On the west by the east right-of-way line of Goodlette Road (C.R. 851). Subject to easements and restrictions of record; containing 11.50 acres, more or less.
Listing of Owner and Consultants

Owner
Bayfront Marketplace, Inc.
Kevin L. Stoneburner, President
c/o The Stoneburner Companies
2150 Goodlette Road
Suite 700
Naples, Florida 34102
(941) 649-8700

Owners Representative
Richard D. Yovanovich, Esquire
Goodlette, Coleman & Johnson, P.A.
4001 North Tamiami Trail
Suite 300
Naples, Florida 34103
(941) 435-3535

Architects
R. Scott Akins, AIA
R. Scott Akins Architect, LLC
401 Bayfront Place, Suite 3402
Naples, Florida 34102

Survey
Coastal Engineering
3106 Horseshoe Drive South
Naples, Florida 34104
(239) 643-2324

Landscape Architect
A. Gail Boorman & Associates, PA
Gail Boorman, Landscape Architect
Naples, Florida
(239) 263-2242
Planned Uses

Artesanal Use. 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 hand held and/or table mounted manual and electrical tools.

Commercial Use. Premises used generally for the conduct of artesanal, retail, restaurant, limited lodging, professional business, governmental service, cultural entertainment activities, but excluding prohibited uses. Establishments with liquor licenses are specifically permitted with no required separation from other businesses or licenses. However, the total number of liquor licenses is limited to six seven licenses.

Home Occupation. Any activity carried out for gain by a resident and conducted as a customary, incidental and accessory use in the resident’s dwelling unit.

Residential Use. Premises used primarily for human habitation. A home occupation is permitted. Units shall not be less than 750 square feet in air conditioned area except that up to 10% of the units may be as small as 600 square feet in air conditioned area.

Transient Lodging. Dwelling units may be designated for short term rental.

Recreational Use. Pool, spa, patio, club room, exercise facility, and kitchenette facilities for the exclusive use of the residents shall be permitted.

Accessory uses and structures which are incidental to and customarily associated with the permitted uses in this planned development. These accessory uses shall include amenities which enhance the use and enjoyment of the waterfront by the public; such as pools, gazebos, restroom/shower facilities, docks and environmental furniture (benches, arbors, etc.).

Parking Structures: Subject to the following:
  a. Limitation of one level above grade
  b. Addition of an ornamental buffer between said structure and any adjacent residential use or district.
  c. Limitation of light fixture height to a maximum 24 feet above grade.

Landscaped Public Open Space:
The waterfront open space and landscaped street space including streets and excluding arcades is approximately 133,350 SF or 3 acres. Approximately 50% of this space is dedicated to streets with the remainder as sidewalks, planting beds, and terraces. The waterfront and landscaped street space are publicly accessible and designed for recreational enjoyment.

Waterfront Boardwalk:
A 10’ wide boardwalk will be constructed at the height of the concrete sea wall and will extend the boardwalk planned by the Comfort Inn. Adjacent to the boardwalk will be a floating dock for access to the 51 proposed boat slips. This construction is subject to City and DEP approval.
Building 7

A pneumatic automatic teller along the south side of Building 7 shall be permitted.

**Boat Slips:**
Boat slips permitted and constructed in accordance with all City, State, and Federal requirements are proposed to be constructed along the southern property line which abuts the Gordon River.

Boat slips are permitted to be sold or rented. Rental or sale of boat slips can be permitted for charter boat use. The sale or rental of boat slips to individual boat owners is based upon parking spaces set forth in Exhibit “A” attached hereto. The Property Owner can rent or sell the slips to charter boats and the parking requirements for charter boats will be one parking space per four passengers. Charter boats shall not include rental boats. Under the current parking calculation set forth in Exhibit “A”, there are 85 extra parking spaces within the project. The Property Owner shall notify the City staff when it rents or sells a boat slip for use by a charter boat of the number of passengers authorized by the charter boat and the number of parking spaces assigned to that charter boat. Compliance shall be in accordance with Department of Environmental Protection (DEP) rules, regulations and permits, as required. No mobile fueling of vessels and no cleaning of fish shall be allowed.

Outdoor Entertainment:
Live entertainment may be allowed within the Promenade areas as defined on the Master Plan, subject to the Petitioner obtaining a live entertainment permit and meeting all the criteria other than the associated use.

**Tabulation of Planned Uses**
This project consists of maximum commercial square footages, maximum number of dwelling units, maximum site coverages and maximum building heights as summarized in the attached table.

In addition to the tabulated uses, this project also provides two parking structures with one above grade level of parking, Landscaped Public Open Space, Boat Slips, and Waterfront Boardwalk as indicated by the General Site Plan.

Parking shall be provided in the ratio of 3 parking spaces per 1000 GSF of commercial use, and 1-1/2 parking spaces per dwelling unit.

The development statistics are presented in total, although the actual construction may be phased based on the sales of the condominium units, and availability of financing for the project.

The commercial square foot areas, parking spaces and dwelling unit numbers may be adjusted between buildings, provided that the total do not exceed those indicated in Project Data Summary. See Exhibit “A” for tabulation of project data.
Definition of Building Height:
The vertical distance measured from the FEMA first habitable floor height requirement, to the highest point of the main (flat) roof surface of the principal structures, or to the top guardrail height for parking structures.

Height Requirements, Exception Thereto:
Chimneys, elevator shafts, television and radio antenna, bell towers, rooftop heating, ventilating and air conditioning equipment, ornamental screens for such equipment, and stair towers may only extend a maximum of ten (10) feet above the highest point of the main building. Cupolas, dormers, parapets, hip, gable and mansard roofs, domes, spires, and other miscellaneous architectural elements intended to enhance the visual appearance of the structures, may extend an additional twelve (12) feet above the roof height of the structure of which they are a part.

Where roof structures are added to the parking decks, the parking structure building height may be increased to twenty-four (24) feet.

Parking shall be permitted to be constructed below Building 7. In the event parking is constructed below Building 7, the parking level shall not be considered a story for height calculation provided that the parking level is constructed below the FEMA first habitable floor height requirement.

Statement of Availability of Sewer and Water:
Water and Sewer Service:
This property falls within the water and sewer service area of the City of Naples. Both water and sewer service are available to the site.

Stormwater Management Strategy:
All stormwater management facilities will be constructed below grade, utilizing water detention vaults, catch basins, and drainage piping to meet City, County and State water management guidelines. The first floor elevation of all buildings (excluding parking garages) will be at 9.0 NGVD to comply with FEMA guidelines.

Development Schedule:
All buildings except for Buildings 6 and 7 have been constructed.

Commonly Owned and Used Areas:
Building 1 and its related site area is under the separate ownership of Art Allen. This building is constructed at this time.

The remainder of the site will be placed under a condominium ownership and/or Association, with all common area maintenance shared between the condominium and project owners. Documents creating this ownership and control have been completed.

Areas to be conveyed to Public Purposes:
A 10 foot easement along Goodlette Road, for the purposes of installation of a force main for sewer service, has been conveyed by the Owner to the City of Naples. Other easements will be granted when as normally required for this type of development, to the applicable utility agencies involved.
Proposed Revisions to previously approved Ordinance, 97-7959:
Section 3 of the previously approved ordinance 97-7959 consists of a list of conditions adopted by the City Council in regards to the approval of this development and attached as Exhibit “B-2”. These conditions were numbered 1) through 14). The Owner is in agreement with these conditions which shall remain in effect with clarification that the boat slips may be sold to non-residents.

End of Planned Development Narrative.
### Exhibit “A” to the Planned Development document

#### Tabulation of Project Data

<table>
<thead>
<tr>
<th>Building/Use</th>
<th>Gross Commercial GSF</th>
<th>Number of Dwelling Units</th>
<th>Number of Required Parking Spaces</th>
<th>Site Coverage GSF</th>
<th>Site Coverage as a percent of Total</th>
<th>Maximum Building Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building 1 Office/Retail</td>
<td>61,740</td>
<td>0</td>
<td>185</td>
<td>14,575</td>
<td>2.9%</td>
<td>65’</td>
</tr>
<tr>
<td>Building 2 Retail/Rest./Residential</td>
<td>13,000</td>
<td>3836</td>
<td>9693</td>
<td>16,000</td>
<td>3.2%</td>
<td>60’</td>
</tr>
<tr>
<td>Building 3 Retail/Rest./Residential</td>
<td>13,000</td>
<td>3836</td>
<td>9693</td>
<td>16,000</td>
<td>3.2%</td>
<td>60’</td>
</tr>
<tr>
<td>Building 4 Retail/Rest./Residential</td>
<td>14,500</td>
<td>4440</td>
<td>105104</td>
<td>22,500</td>
<td>4.5%</td>
<td>60’</td>
</tr>
<tr>
<td>Building 5 Retail/Residential</td>
<td>16,000</td>
<td>3944</td>
<td>102114</td>
<td>27,500</td>
<td>5.5%</td>
<td>60’</td>
</tr>
<tr>
<td>Retail/Office./Residential Building 6**</td>
<td>8,092,16,153</td>
<td>63</td>
<td>3353</td>
<td>10,099</td>
<td>2.0%</td>
<td>49'3</td>
</tr>
<tr>
<td>Building 7 Retail/Residential</td>
<td>2,317,142</td>
<td>4414</td>
<td>2443</td>
<td>42,74013,117</td>
<td>2.52.6%</td>
<td>3542’</td>
</tr>
</tbody>
</table>

| **Bacio Outdoor Dining**              |                      |                          |                                   |                   | 1.237                               | 4                       |
| **Petite Syrah Outdoor Dining**       |                      |                          |                                   |                   | 740                                 | 2                       |
| **Stoney’s Outdoor Dining**           |                      |                          |                                   |                   | 860                                 | 3                       |
| **Promenade Outdoor Dining**          |                      |                          |                                   |                   | 1,820                               | 0.1%                    |
| **Gazebo Cabana Bar**                 |                      |                          |                                   |                   | 4,0001,650                          | 0                      |

| **Boat Slips**                        |                      |                          |                                   |                   | 4641 slips                          | 0                       |

**Sub-total:** 6,307  3032

**Project Totals:** 446,299,147,842  173  676,717  119,791  24.0%
Parking Adjustments
Waterfront access credit -36
Credit for patron mooring -5
Parking leased by Comfort Inn 30
Total Required Parking 665706

Location Parking Provided
Parking Deck 1 278
Parking Deck 2 193
Building 1 Allen Systems 202
Building 7 31
On Street 87
TOTAL 791

<table>
<thead>
<tr>
<th>Accessory Uses</th>
<th>Site Coverage GSF</th>
<th>Site Coverage as a percent of Total</th>
<th>Maximum Building Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building/Use</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Perimeter Landscaping</td>
<td>40,400</td>
<td>8.0%</td>
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<tr>
<td>Interior Landscaping</td>
<td>49,470</td>
<td>9.8%</td>
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</tr>
<tr>
<td>Public Open Space</td>
<td>NA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Boatslips</td>
<td>NA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Waterfront Boardwalk</td>
<td>NA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gazebo</td>
<td>NA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>East Parking Garage</td>
<td>33,920</td>
<td>6.8%</td>
<td>16' to rail</td>
</tr>
<tr>
<td>West Parking Garage</td>
<td>51,733</td>
<td>10.3%</td>
<td>16' to rail</td>
</tr>
</tbody>
</table>

Total Site Coverage by Buildings and Parking Structures 41.1%

**Petitioner has the option of replacing the approved commercial square footage (8,061) on the 2nd floor of Building 6 with residential units up to a maximum of three residential units.**
Exhibit “B-2” to the Planned Development document

Section 3 (of Ordinance 97-7959) That this approval is subject to the following conditions:

1) The height of Buildings 2-5 shall be limited to 60 feet; Buildings 6 and 7 shall be limited to 40 feet in height. Minor non-habitable architectural embellishments as designated on the submitted drawings may extend a maximum of 20 feet above the highest point of the principal buildings, but shall not extend more than 20 feet above the maximum permitted height.

2) The total number of approved liquor licenses on the property shall be limited to five, and shall not be subject to the distance requirements as listed in Section 110-122 of the Code of Ordinances.

3) "Home Occupation" as listed in the PD document shall be limited to office use only, permitted between the hours of 8:00 a.m. and 5:00 p.m., and shall be accessory to the residential use.

4) Transient lodging, as defined in Section 82 of the Code of Ordinances, shall not be permitted on the subject property.

5) Amenities for the condominium units, as defined in the PD document, may be permitted on the roof of the east parking deck; no covering or roof is required on the east parking deck.

6) The boat slips may be used for patron mooring spaces or recreational use only. No commercial boating activity shall be permitted.

7) Site improvements, such as private streets, landscaping, sidewalks, and parking lots shall be developed concurrently with the construction of Buildings 1, 4 and 5.

8) A southbound left turn lane shall be provided on Goodlette Road for access to the southern driveway on the property.

9) A six-foot high fence or wall with an appropriate hedge or landscaping shall be installed at the northern and eastern property lines to screen the property from the Mariner's Cove condominiums. A gate shall be provided at the southeast corner of the site in order to allow emergency vehicles direct access to the Mariner's Cove property. The fence shall be installed prior to issuing a certificate of occupancy for Building 1.

10) Gated pedestrian access to the subject property from Mariner's Cove may be developed as requested by the Mariner's Cove Condominium Association.

11) The petitioner shall submit a sketch containing elevations for the facades facing Goodlette Road (west) and Mariner's Cove (east), a copy of which shall be attached hereto and made a part hereof.

12) All on-site utility lines shall be located underground.

13) The relocation of the traffic light and the associated reconfiguration of the medians on Goodlette Road shall require the mutual agreement of the City of Naples, Bayfront Marketplace, Inc., Gordon River Hotel Associates, Naples Community Hospital, Allen Systems Group, Inc., and the Mariner's Cove Condominium Association, including the timing of the improvements and the responsibility for bearing the costs of moving the traffic light and median reconfiguration. If agreement cannot be reached, any of the above parties may bring the issue to City Council for resolution.

14) Should a left turn lane and median cut from southbound Goodlette Road to the Comfort Inn property not be permitted by Collier County, the City shall permit Bayfront Marketplace Inc. to provide Gordon River Hotel Associates with directional signage, to be located together with the entry signage for Bayfront Marketplace and to be no less than one foot by five feet in size, to be placed under the signage for Bayfront Marketplace and in a manner consistent with the theme and quality of the signage for the marketplace.