

**Agenda Item 17-a  
Meeting of 03/04/15**

**ORDINANCE 15-13619**

**AN ORDINANCE REZONING APPROXIMATELY 8.8 ACRES FROM D DOWNTOWN TO PD PLANNED DEVELOPMENT IN ORDER TO ALLOW FOR A NEW MIXED USE DEVELOPMENT CONSISTING OF 212 RESIDENTIAL UNITS WITH APPROXIMATELY 8,000 SQUARE FEET OF NONRESIDENTIAL SPACE AND APPROXIMATELY 28,000 SQUARE FEET OF PUBLIC OPEN SPACE ON PROPERTY OWNED BY R & B NAPLES HOLDINGS 3, LLC AND LOCATED AT 1075 CENTRAL AVENUE, MORE FULLY DESCRIBED HEREIN; APPROVING REZONE PETITION 14-R8; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.**

**WHEREAS,** R&B Naples Holdings 3, LLC, petitioner, has petitioned to rezone approximately 8.8 acres from D Downtown to PD, Planned Development in order to allow for a new mixed use development consisting of 212 residential units with approximately 8,000 square feet nonresidential space and approximately 28,000 square feet of public open space on property located at 1075 Central Avenue; and

**WHEREAS,** John M. Passidomo, Esq., Cheffy Passidomo, has been authorized by the petitioner and owner as agent for this petition; and

**WHEREAS,** following an advertised public hearing on December 10, 2014, 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 14-R8 be approved; 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 approved;

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

**Section 1.** That the City Council hereby rezones approximately 8.8 acres from D Downtown to PD, Planned Development in order to allow for a new mixed use development consisting of 212 residential units with approximately 8,000 square feet nonresidential space and approximately 28,000 square feet of public open space on property owned by R & B Naples Holdings 3, LLC and located at 1075 Central Avenue, said property more fully described as follows:

**Tract one, Naples Early Edition, according to the Plat thereof recorded in Plat Book 50, Pages 21-23, of the Public Records of Collier County, Florida.**

**Section 2.** That the project shall be developed in compliance with the Planned Development Document for 1075 Central as revised on March 3, 2015 prepared by Cheffy Passidomo, a copy of which is attached hereto as Attachment "A" and made a part hereof.



**Section 3.** That Rezone Petition 14-R8 is hereby approved.

**Section 4. Disclaimer & Permit Condition (Applicable only if federal or state permits are required):** Issuance of a development permit by the City does not create any right to obtain a permit from a State or Federal agency and does not create any liability on the part of the City for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a State or Federal agency or undertakes actions that result in a violation of State or Federal law. If applicable, all other State or Federal permits must be obtained before commencement of the project.

**Section 5.** 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.

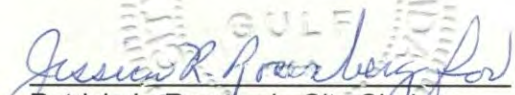
**Section 6.** That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.


**Section 7.** This ordinance shall take effect concurrently with the effective date of the comprehensive plan amendment 14-CPASS4 (Ordinance 15-13611) which shall be the earliest date permitted under Section 163.3187, Florida Statutes.

**APPROVED AT FIRST READING THE 18<sup>TH</sup> DAY OF FEBRUARY, 2015.**

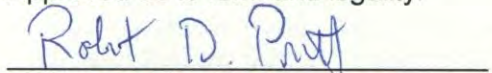
**PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THIS 4<sup>TH</sup> DAY OF MARCH, 2015.**

Attest:

  
Patricia L. Rambosk, City Clerk

  
John F. Sorey III, Mayor

Approved as to form and legality:

  
Robert D. Pritt, City Attorney

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Date filed with City Clerk: 3-6-15

ATTACHMENT "A"

**PLANNED DEVELOPMENT DOCUMENT**

**FOR**

**1075 CENTRAL**

Date of Submittal: November 3, 2014  
as revised on December 24, 2014,  
February 25, 2015 and March 3, 2015  
Prepared by: Cheffy Passidomo

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**SECTION I**

**LIST OF EXHIBITS**

Sketch illustrating Downtown and Residential District Boundaries (Exhibit A).

Sketch illustrating Setbacks and Minimum Yards (Exhibit B).

**SECTION II**

**LEGAL DESCRIPTION**

Tract one, Naples Early Edition, according to the Plat thereof recorded in Plat Book 50, Pages 21 – 23, of the Public Records of Collier County, Florida (the "Land" or the "Property").

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**SECTION III  
PROJECT TEAM**

Petitioner  
and Land Owner: R&B Naples Holdings 3, LLC  
2002 4<sup>th</sup> Street South  
Naples, Florida 34102  
Telephone: 239-262-0441

Architect: Matthew H. Kragh, AIA NCARB  
MHK Architecture & Planning  
975 6th Avenue South, Suite 200  
Naples, Florida 34102  
Telephone: 239-919-0786

Attorney: John M. Passidomo  
Cheffy Passidomo, P.A.  
821 Fifth Avenue South  
Naples, Florida 34102  
Telephone: 239-261-9300

**SECTION IV**  
**DISTRICT BOUNDARIES**

The Property is divided into a downtown district and a residential district as illustrated on the attached Exhibit A which is incorporated herein by reference. The Land Owner may at its discretion relocate the boundaries between the districts subject to administrative site plan approval as and to the extent prescribed under the Naples Code.



## SECTION V

### DOWNTOWN DISTRICT DEVELOPMENT STANDARDS

The uses, heights, densities, intensities, and development standards for the downtown district are prescribed in Division 30. D Downtown District contained in Sec. 58-901 through 58-921, inclusive, of the Naples Code, as amended from time to time, and as amended by the Property Development Standards described in Section VII of this Planned Development Document; provided, however, (i) setbacks and minimum yards shall be as illustrated on the attached Exhibit B, and (ii) the maximum height of all structures in the downtown district shall be limited to 42 feet measured from the 1<sup>st</sup>-floor FEMA elevation to the peak of the roof. Chimneys, elevator shafts, stair towers, rooftop heating, ventilating and air conditioning equipment, ornamental screening for such equipment, and architectural embellishments not for habitation may extend 7 feet above the peak of the building roof over an area which does not exceed 10% of the building's roof area. Parking required for the downtown district may be located in the residential district. The residential amenity center shown on the Site Plan which accompanies this Planned Development Document may be converted to commercial space upon meeting the parking requirement for commercial space in the D Downtown District.

**Section VI****RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS****District purpose.**

The residential district is principally designed to accommodate residential dwelling units.

**Uses permitted.**

No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, in the residential district for other than the following:

- (1) Single-family residences.
- (2) Multifamily residences with rentals allowed for periods of 30 days or longer.
- (3) Accessory structures which are incidental to and customarily associated with the permitted uses in this district listed in subsections (1) and (2) of this section.
- (4) Public Park facilities.
- (5) A maximum of six (6) guest suites with complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking (inside or outside the individual guest suite) and sanitation ("Guest Suites").
- (6) Private and resort recreational amenity elements for residents, tenants, guests and invitees who live on or off the Property to include, without limitation:

## Pool and pool deck

- Meeting rooms
- Activities rooms
- Massage rooms
- Food preparation and service
- Kitchen and cooking facilities, grills, cooktops and deep fryers
- Refrigerators, freezers, and ice makers
- Ping pong and similar games
- TV and music
- Wi-fi
- Poolside/room service
- Bar/lounge
- Indoor and outdoor dining
- Child care center
- Lazy river and other water features
- Arbors and awnings on the pool deck
- Additional activities normally associated with private and resort recreation
- Hours of operation 11:00 a.m. – 9:00 p.m.



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- (7) Accessory uses and structures which are incidental to and customarily associated with the permitted uses in this district.

**Conditional uses.**

Conditional uses in the residential district are as follows:

- (1) Child care centers.
- (2) Nursing or rest homes (up to 12 units per net acre).
- (3) Parking lots, noncommercial, with no meters or on-site parking fee collection.

**Minimum lot area.**

Minimum lot area in the residential district is 6,000 square feet.

**Minimum lot width.**

Minimum lot width in the residential district is 40 feet.

**Minimum yards.**

Minimum yards in the residential district are 10 feet, all of which shall be landscaped in accordance with the landscaping requirements of chapter 50 of the Naples Code, along the western, eastern and northern perimeter boundaries of the residential district; provided, however, that there shall be no setback or minimum yard along the southern boundary of the residential district as illustrated on the attached Exhibit B.

There is no minimum yard for separation between principal structures, and the length and width of structures permitted in the residential district may extend to the setback lines.

**Minimum floor area.**

Minimum floor area in the residential district is as follows:

- (1) 1-family dwellings:
  - a. 1-story buildings: 1,000 square feet.
  - b. 2-story buildings: 1,250 square feet.
- (2) 2-family dwellings: 1,000 square feet per dwelling unit.
- (3) 3- or more family dwellings: 600 square feet per dwelling unit.
- (4) Manager's apartment: 600 square feet; provided, however, that for purposes of calculating density a manager's apartment shall not be considered a dwelling unit.



(5) Guest Suites: There is no minimum floor area requirement for Guest Suites.

**Maximum height.**

Maximum height in the residential district is 54' to the peak of the roof limited to four (4) habitable floors, measured from the greatest of the following:

- (1) The FEMA requirement for 1st habitable floor height;
- (2) 18 inches above the state department of environmental protection requirement for the 1st habitable floor structural support;
- (3) 18 inches above the elevation of the average crown of the adjacent roads;

provided, however, that chimneys, elevator shafts or overruns, stair tower roofs, rooftop heating, ventilating and air conditioning equipment, ornamental screening for such equipment, energy producing devices such as solar panels and wind turbines and architectural embellishments may extend 7 feet above the peak of the building roof over an area which does not exceed 10% of the building's roof area.

**Maximum lot coverage by all buildings.**

There is no maximum lot coverage requirement in the residential district.

**Maximum fence or wall height.**

The maximum fence or wall height in any rear yard is 8 feet measured from grade adjacent to the wall or fence. The maximum fence or wall height to enclose ground floor patio areas is 4 feet measured from grade adjacent to the wall or fence.

## SECTION VII

### PROPERTY DEVELOPMENT STANDARDS

#### **Scope; conflict resolution.**

Maximum allowable density and minimum off-street parking development standards contained in this Section VII shall pertain to the entire Property as a whole and shall supersede and take priority over any conflicting standard contained in or deduced from the Downtown District Development Standards described in Section V or the Residential District Development Standards described in Section VI of this Planned Development Document.

#### **Maximum allowable density.**

The maximum allowable density on the Property is 212 dwelling units. The Manager's Unit and Guest Suites are not dwelling units for purposes of calculating maximum allowable density or the open space fee on the Property.

#### **Dedication of public open space.**

At or prior to issuance of a certificate of occupancy from the City of Naples for any of the buildings located within the Property, the Land Owner, its successors and assigns (the "Land Owner") shall execute, deliver and record a non-exclusive public park easement to the City of Naples for green space, open space, landscaping, and pathways over and across an approximately 28,000 square foot portion of the Property designated as "Dedicated Public Open Space" on the Site Plan which accompanies this Planned Development Document (the "Site Plan").

The area of the Dedicated Public Open Space shall be included as part of the PD for lot coverage calculations, density calculations, minimum yard requirements, open space, and landscaping for the benefit of the Property. The Land Owner may suspend the right to use the Dedicated Public Open Space during construction or maintenance of the Dedicated Public Open Space. There shall be no grade level stormwater detention/retention structures in the Dedicated Public Open Space other than landscaped rain gardens.



**Construction and maintenance responsibilities for Dedicated Public Open Space.**

The Land Owner shall design, permit, construct and maintain the Dedicated Public Open Space substantially as illustrated on the Site Plan to a standard which equals or exceeds the prevailing level of maintenance of city parks and parkways, and pay for same. The City shall cooperate with the Land Owner in the foregoing undertaking.

**Off Site Landscaped Greenways.**

The Dedicated Public Open Space was designed as a way station for offsite green space, open space, landscaping and pathways on public property linking the River Park Community Center to the north and northwest of the Dedicated Public Open Space with Baker Park and the Gordon River Greenway to the east and southeast of the Dedicated Public Open Space (the "Off Site Landscaped Greenways") as depicted on the Site Plan.

**Payment of open space fee.**

A payment of \$20,000 per dwelling unit shall be paid by the Land Owner for the units permitted that exceed the base density of 12 units per acre and the number of units satisfied by the dedication of the public park. As proposed, the base density will be 106 units (12 dwelling units per acre multiplied by 8.8 acres, rounded up). The number of units satisfied by the dedication of the public open space is 56 (28,000 square feet of dedicated public open space divided by the required 500 square feet per unit). A total of 162 units (106 + 56) may be built with the base density and dedication of the 28,000 square foot park. The remaining 50 (or less) units (212 units proposed minus the 162 units allowed) will be satisfied with a payment of \$20,000 per dwelling unit for which a building permit application is submitted, collected at the time a building permit is issued for the first residential building; provided, however, that the Open Space Fee will correspond to the number of dwelling units for which a building permit has been submitted, rather than the maximum number of dwelling units permitted under the PD, if the former is less than the latter.

**Use of Open Space Fee.**

The Open Space Fee shall be deposited into the Naples Downtown Public Open Space Trust Fund. It is the desire of R & B Naples Holdings 3, LLC that the Open Space Fee be utilized for capital expenditures related to construction of (i) a bridge connecting Baker Park to the Gordon River Greenway, (ii) Baker Park, and (iii) the Off Site Landscaped Greenways linking the River Park Community Center with Baker Park and the Gordon River Greenway. However, all allocations of the Open Space Fee shall be at the discretion of City Council.

**Minimum off-street parking.**



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The minimum off-street parking requirement on the Property is two spaces per unit containing two or more bedrooms, one and one half spaces per unit containing one bedroom, and one space per Guest Suite and Manager's Unit; except that, for every parking space provided by a commercial use on the Property, the commercial parking space shall also count equally as a residential parking space for 50 percent of the required parking for the residential use; provided, however that restaurants that serve dinner are excluded from the credit.

**12<sup>th</sup> Street on-street parking.**

In addition to the minimum off-street parking requirement, the Land Owner shall at the city's request design, permit, construct and maintain approximately 32 grass pave block parking spaces in the 12<sup>th</sup> Street right of way as illustrated on the Site Plan (as and to the extent approved by City Council) (the "12<sup>th</sup> Street On-Street Parking"), and pay for same. The final design and parking layout along the 12<sup>th</sup> Street public right-of-way shall be approved by the Streets and Stormwater Department. The Land Owner shall use best efforts to timely design, permit and construct the 12<sup>th</sup> Street On Street Parking but, because the design is subject to city approval, and because the 12<sup>th</sup> Street On Site Parking does not comprise any of Land Owner's minimum off street parking requirement, building permits and certificates of occupancy for improvements on the Property are in no way contingent on the design, permitting and construction of the 12<sup>th</sup> Street On Street Parking.

**SECTION VIII**

**WATER AND SEWER ADEQUACY AND AVAILABILITY**

Water and sewer service for the project is available and will be provided by the City of Naples in accordance with its adequate public facilities criteria. The Land Owner shall be responsible for the construction and cost of the water and sewer facilities within the project.

**SECTION IX****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 volume and pretreatment will be provided on site via the stormwater system design and best management practices in accordance with South Florida Water Management District ("SFWMD") criteria. The SFWMD Environmental Resource Permit will require that a legal entity with perpetual existence be formed to perpetually operate and maintain the water management system to the original design standards, or better. The City will support the SFWMD's efforts to periodically inspect, and as necessary, report deficiencies. The City may conduct inspections of the project stormwater management system, and such inspections may or may not be associated with the City's Stormwater Utility Fee Credit process.



**SECTION X**

**TIME LIMITATIONS**

The period for which construction is required to commence under Sec. 58-810 of the Naples Code is extended from 36 to 60 months. Otherwise, the Property will return to the zoning that existed for the underlying district prior to adoption of this PD.

**SECTION XI**  
**CONFLICTING REGULATIONS**

The regulations contained herein take priority over any setback, maximum height, parking, lot coverage, density, intensity, or other regulation contained in the Naples Code. To the extent that this document does not provide a regulation, the regulations of the Naples Code shall apply, including, by way of illustration, but not limitation, all encroachments allowed under Section 56-54 of the Naples code, except to the extent revised hereby, shall apply.



**SECTION XII**

**VOLUNTARY CENTRAL AVENUE AREA DEDICATIONS**

Land Owner voluntarily offers to dedicate as follows: (a) The Land Owner shall dedicate a ten foot (10') wide linear strip of property along Central Avenue when the Ordinance adopting this Planned Development Document becomes final and non-appealable. The 10' strip shall be maintained by the Land Owner as a landscape buffer until the City completes a 60% design for Central Avenue at which time the City shall assume all construction and maintenance responsibilities for the 10' strip; and (b) The Land Owner shall dedicate an 1,800 square foot parcel illustrated on the Map of Boundary Survey submitted with the Planned Development as located in the existing pavement for Central Avenue roadway easement as public right-of-way when the Ordinance adopting this Planned Development Document becomes final and non-appealable.

Exhibit A

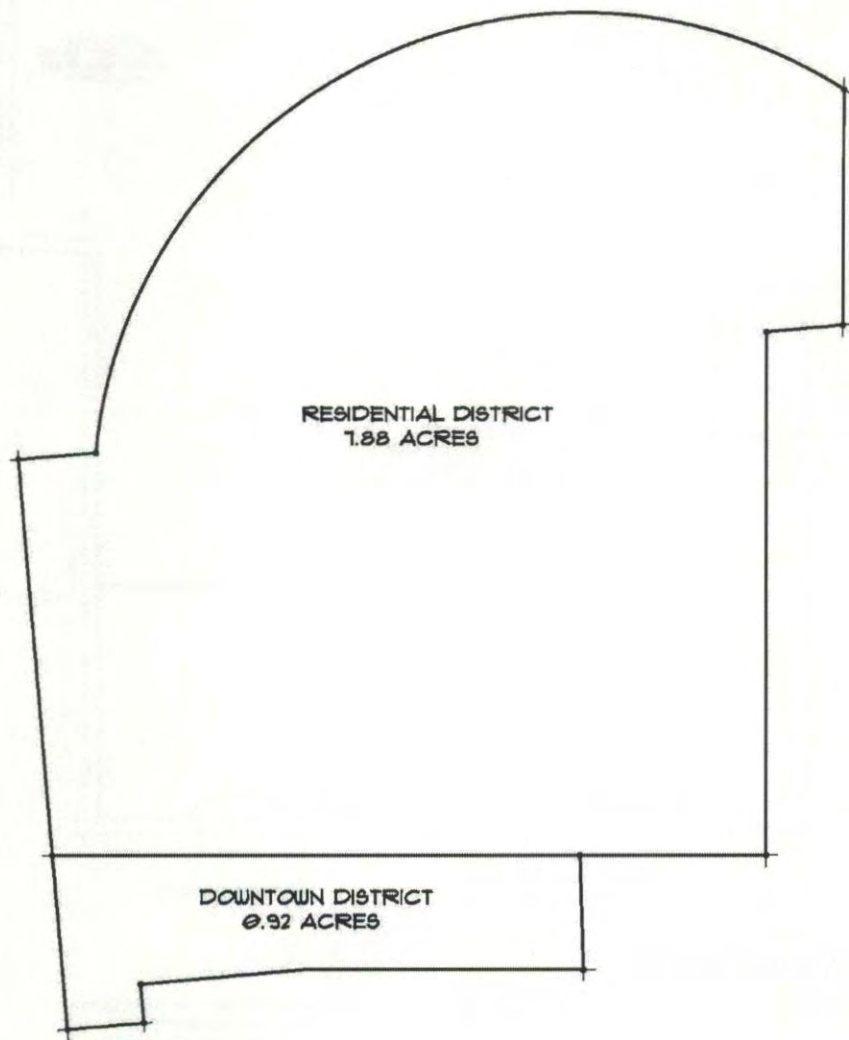




Exhibit B

