

ORDINANCE 04-10570

AN ORDINANCE DETERMINING REZONE PETITION 04-R3 REZONING THE PROPERTY AT 605 SANDPIPER STREET FROM PLANNED UNIT DEVELOPMENT, PUD, AND R3-12, MULTIFAMILY RESIDENTIAL, TO PD, PLANNED DEVELOPMENT; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

WHEREAS, Antaramian Capital Partners, LLC, owner of property at 605 Sandpiper Street, has petitioned to rezone this property from Planned Unit Development, PUD, and R3-12, Multifamily Residential, to Planned Development, PD; and

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

WHEREAS, following a public hearing, the Planning Advisory Board has considered the recommendation of the staff and the public input and has recommended by a vote of 6 to 1 that Rezone Petition 04-R3 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 granted;

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

**Section 1.** That Rezone Petition 04-R3 is hereby granted, rezoning the property at 605 Sandpiper Street from PUD, Planned Unit Development, and R3-12, Multifamily Residential, to PD, Planned Development, said property more particularly described as follows:

See Exhibit "A"

**Section 2.** That this approval is based upon the Planned Development Document for Naples Bay Marina prepared by Cheffy Passidomo Wilson & Johnson submitted April 12, 2004, a copy of which is attached hereto as Exhibit "B" and made a part hereof.

**Section 3.** That this approval is based upon the plans presented with the Planned Development Document showing 108 residential units. Any additional units or change in height from that presented will require review through the General Development and Site Plan process, with approval by both the Planning Advisory Board and City Council.

**Section 4.** That this approval allows rentals for periods of a week or longer but specifically prohibits time share or interval ownership.

**Section 5.** This ordinance shall take effect upon the effective date of the ordinance approving Comprehensive Plan Amendment 04-CPA1 for the property described in Section 1 above.

**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 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.

APPROVED AT FIRST READING THIS 16TH DAY OF JUNE, 2004.

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 29TH DAY OF SEPTEMBER, 2004.

\_\_\_\_\_  
Bill Barnett, Mayor

Attest:

Approved as to form and legality:

\_\_\_\_\_  
Tara A. Norman, City Clerk

\_\_\_\_\_  
Robert D. Pritt, City Attorney

M:\REF\COUNCIL\ORD\2004\04-10570

Date filed with City Clerk: \_\_\_\_\_

"EXHIBIT A"

PARCEL 1:

All of Lots 107 and 108, GOLDEN SHORES SUBDIVISION, according to plat in Plat Book 3, Page 25, Public Records of Collier County, Florida.

PARCEL 2:

The West one-half ( $W \frac{1}{2}$ ) of the Northwest one-quarter ( $NW \frac{1}{4}$ ) of the Northwest one-quarter ( $NW \frac{1}{4}$ ) of Section 11, Township 50 South, Range 25 East, lying South of State Road 90 (Tamiami Trail, U.S. 41), in Collier County, Florida, except the South 264 feet, and

All that part of the South 264 feet of the Southwest one-quarter ( $SW \frac{1}{4}$ ) of the Northwest one-quarter ( $NW \frac{1}{4}$ ) of the Northwest one-quarter ( $NW \frac{1}{4}$ ) of Section 11, Township 50 South, Range 25 East, in Collier County, Florida, lying north of the north line of Walker's Subdivision as delineated on a Plat of record in plat book 1, at page 36, of the Public Records of Collier County, Florida.

PARCEL 3:

Lots 1 to 8, inclusive, COL-LEE-CO TERRACE, according to plat in Plat Book 1, Page 32, Public Records of Collier County, Florida.

LESS AND EXCEPTING FROM all parcels above, Those parcels described in Official Records Book 1969, Page 977, and Official Records Book 2119, Page 1344 both of the Public Records of Collier County, Florida.

Exhibit "B"

**PLANNED DEVELOPMENT DOCUMENT**

**FOR**

**NAPLES BAY MARINA**

Date of Submittal: April 12, 2004  
Prepared by: Cheffy Passidomo  
Wilson & Johnson, LLP

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**SECTION I**  
**LIST OF EXHIBITS**

Total Tract Boundary Survey

Vicinity Map

Architect's Elevations

Site Plan, including information showing compliance with District Development Criteria and Standards,  
and Landscape Plan

**SECTION II**

**LEGAL DESCRIPTION**

See attached Exhibit "A" which is incorporated herein by reference (the "Property" or the "Land").

**SECTION III**

**PROJECT TEAM**

Land Owner: Antaramian Capital Partners, LLC  
365 Fifth Avenue South, Suite 201  
Naples, Florida 34102  
Telephone: 434-0600

Attorney: John M. Passidomo  
Cheffy Passidomo  
Wilson & Johnson, LLP  
821 Fifth Avenue South  
Naples, Florida 34102  
Telephone: 436-1529

Architect: David M. Corban, AIA  
Architectural Network Inc.  
837 Fifth Avenue South  
Naples, Florida 34102  
Telephone: 434-5800

Civil Engineer: George Hermanson, PE  
Hole Montes, Inc.  
950 Encore Way  
Naples, Florida 34110  
Telephone: 254-2000

Traffic Engineer: Reed K. Jarvi, PE  
Vanasse Daylor, LLP  
12730 New Brittany Blvd.  
Fort Myers, Florida 33907  
Telephone: 437-4601



**SECTION IV****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 waterfront mixed use development at Naples Bay Marina. 52,500 square feet of commercial space permitted under existing zoning will be eliminated. Recreational uses will be sited along US 41 to buffer proposed residential uses and the East Trail thoroughfare.

- 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 approximately one half linear mile of street frontage on US 41 East; (ii) beautify the eastern entrance to the City of Naples and one of its premier residential neighborhoods; and (iii) remove and relocate overhead utility lines.

- 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 108 units on a site of approximately 15 acres for a density of 7.2 units per acre. All structures within the proposed development illustrated on the site plan total 16% lot coverage.

- 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 or exceeded. Building heights will be reduced from a maximum of 68' permitted under the existing zoning to 30'. Analysis completed by Vanasse and Daylor indicates that (i) traffic impacts will be reduced from 7,344 average daily trips under existing zoning on the Property to 1,148 average daily trips and (ii) there is appropriate capacity for surrounding roadways to absorb anticipated traffic impacts. The stormwater drainage system will be designed to detain a 25 year storm on site. Parking and

loading facilities are designed in accordance with the City of Naples Comprehensive Development Code (the "Naples Code").

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 of the same level as that proposed at Naples Bay Marina and similar to that of redeveloped properties on Fifth Avenue South. The quality and number of amenities proposed for the development far exceed that required by any standard zoning districts.

6. **Open space shall be adequate for the type of development and the population densities proposed.**

Open space, green space and landscaping, and the public's use and enjoyment thereof, will be enhanced through the dedication of a Public Park Easement. All open space, lot coverage, density, and landscaping standards will be met or exceeded. Proposed usable open space exceeds 50%.

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

Any residential condominium ultimately developed 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****DEDICATION OF PUBLIC PARK EASEMENT**

The Land Owner shall make a good faith and diligent effort to work with the City of Naples and other interested stakeholders to promptly design, permit and improve the Public Park Easement Area (as hereafter defined) as soon as reasonably practicable after expiration of the appeals period for the rezoning proposed in conjunction with this Planned Development Document. In any event, 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 shall execute, deliver and record a non-exclusive public park easement to the City of Naples for green space, open space, landscaping, and pathways along the east side of Sandpiper Street to facilitate pedestrian, bicycle, golf cart, and other means of access from the southwest corner of the Property north and south along Sandpiper Street, across Sandpiper Street to the existing public park at the northwest corner of Sandpiper Street, through the public park, and to the Public Waterfront Access Easement Area at Naples Bay Marina (the "Public Park Easement") over and across the portion of the Property designated as Park District on the General Development and Site Plan which accompanies this Planned Development Document (the "Public Park Easement Area"). The Land Owner shall retain the right to (i) use the Public Park Easement Area for any purpose which does not unreasonably interfere with the intended purpose of the Public Park Easement, including, without limitation, vehicular and pedestrian access to and from the Property to Sandpiper Street, pathways, signage, utilities, sculpture, art, water features, benches, drainage, water management, lot coverage calculations, setback areas, density calculations, open space, and landscaping for the benefit the Property; and (ii) suspend the right to use the Public Park Easement during any period of construction or maintenance in, or in reasonable proximity to, the Public Park Easement Area. The Land Owner shall design, permit, construct and maintain the Public Park Easement Area, and pay for same. The City shall cooperate with the Land Owner in the foregoing undertaking. The Public Park Easement Area shall be maintained to a standard which equals or exceeds the prevailing level of maintenance of city parks and parkways. Upon no less than one (1) year written notice to the City, at its election at any time after three (3) years after adoption of an ordinance approving the Planned Development Rezone requested with this Planned Development Document the Land Owner may delegate responsibility to maintain the Public Park Easement Area to the City. The City shall thereafter pay for such maintenance. The Land Owner and the City shall work cooperatively in designing, permitting and constructing improvements to the existing City Park located on the northwest corner of Sandpiper Street (the "Existing City Park") so that it is functionally and aesthetically compatible with the Public Park Easement Area. The Land Owner shall pay the cost of designing, permitting and constructing improvements to the Existing City Park. At its cost, the City shall thereafter maintain the Existing City Park in a manner consistent with the Land Owner's maintenance of the Public Park Easement Area. The City shall maintain and operate the Existing City Park to facilitate access on, over and across it to and from the Public Park Easement Area and the Public Waterfront Access Easement Area at Naples Bay Marina to encourage waterfront access to Naples Bay.

## SECTION VI

### DEVELOPMENT CRITERIA AND STANDARDS

#### Park District.

**Purpose.** The Park District is designed to accommodate the dedication of the Public Park Easement with permitted uses more particularly hereafter described.

**Permitted Uses.** The following are permitted uses in the district:

- (1) Public Park Easement.
- (2) Any purpose which does not unreasonably interfere with the intended purpose of the Public Park Easement, including, without limitation, vehicular and pedestrian access to and from the Land to Sandpiper Street, signage, utilities, sculpture, art, water facilities, benches, drainage, water management, lot coverage calculations, setback areas, density calculations, open space, and landscaping for the benefit the Land and any other use of the Land permitted under the Naples Comprehensive Development Code.
- (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.

#### Residential and Recreational Amenity District.

**Purpose:** The Residential and Recreational Amenity District is intended to accommodate an integrated and well designed development in accordance with approved development plans. It includes all of the Property, except for the Park District. The district is intended to offer flexibility of design and to encourage imaginative, functional, high quality land planning development which is compatible with adjacent and nearby lands and activities. Lands proposed for development under this district may contain a mixture of uses.

**Permitted Uses.** In the district, no building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following:

- (1) Multifamily dwelling units with rentals allowed for periods of a week or longer.
- (2) Private and resort recreational amenity elements for residents, tenants, guests and invitees who live on or off the Property to include, without limitation:

Clubs, private and resort  
Pool and pool deck  
Tennis courts  
Volleyball courts  
Pro shop  
Meeting rooms  
Activities rooms  
Massage rooms  
Food service  
Bar/lounge  
Indoor dining  
Outdoor dining  
Child care center  
Additional activities normally associated with private and resort recreation

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

**Conditional Uses.** The Planning Advisory Board may, through the review and approval of a conditional use petition and with the approval of City Council, permit other uses which are similar to and no more intense than the permitted uses.

**Dimensional and Performance Standards Which Apply to the Property as a Whole.**

**Maximum Permitted Density.** Maximum permitted density on the Property is 12 units per acre.

**Minimum Lot Area.** Minimum lot area on the Property is 15,000 square feet.

**Minimum Lot Width.** Minimum lot width on the Property is 100 feet.

**Minimum Yards.** Minimum yards on the Property measured from the perimeter Property line (the Public Park Easement is not a Property line) are as follows:

- (1) US 41: 25 feet.
- (2) Sandpiper: 25 feet and no less than 5 feet from the Public Park Easement Area.
- (3) Frederick: 25 feet.
- (4) Tidal creek at south edge of property: 25 feet from top of bank or property line, whichever is most restrictive.
- (5) Separation between principal structures: 20 feet.

**Minimum Floor Area.** Minimum floor area of dwelling units on the Property is 1,000 square feet.

**Maximum Height.** Maximum height on the Property is thirty feet (30') on the part of the Property located within the City of Naples prior to annexation of the balance of the Property, and forty-two feet (42') on the balance of the Property. For the purpose of this subsection, height shall be measured from the greatest of the following:

- (1) The FEMA requirement for first habitable floor height;
- (2) Eighteen inches above the DNR (DEP) requirement for the first habitable floor structural support;
- (3) Eighteen inches above the elevation of the average crown of the adjacent road(s); or
- (4) The average grade to the highest point of a flat roof, the deck line of a mansard roof or the mean height between the eaves and ridge of a gable, hip or gambrel roof.

**Minimum Off-street Parking.** Minimum off-street parking on the Property is as follows:

- (1) Multi-family units with or without rentals: one and one-half spaces per unit.
- (2) Clubhouse: one space per 300 square feet.
- (3) Tennis Pro Shop: one space per 300 square feet.
- (4) Tennis: three spaces per court.
- (5) Swimming Pool and Pool Deck: no parking requirement.

Parking requirements for other uses will be determined under Chapter 106 of the Naples Code.

**Maximum Lot Coverage By All Buildings.** Maximum lot coverage on the Property is 25 percent, but there is no individual lot coverage standard for any individual district.

**SECTION VII**

**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 Land Owner shall be responsible for the construction and cost of the water and sewer facilities within the project.

## SECTION VIII

### **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 IX**

**POLLING PLACES**

A polling place will be provided in the community recreation/public building/public room if a polling place is determined to be necessary by the City Council.

**SECTION X**

**OVERHEAD UTILITY LINES**

The Land Owner has at its expense relocated existing overhead utility lines previously located on the Property. Future utility lines will be installed underground.

**SECTION XI**

**TIME LIMITATIONS**

Although improvements to and dedication of the Public Park Easement Area are encouraged on an expedited basis under Section V of this Planned Development Document, the period for which construction of other improvements is required to commence under Sec. 102-720 of the Naples Code is 60 months.