

Agenda Item 6-a
Meeting of 9/18/02

ORDINANCE 02-9790

AN ORDINANCE DETERMINING REZONE PETITION 02-R3 FOR PROPERTY LOCATED AT 1001 10TH AVENUE SOUTH MORE PARTICULARLY DESCRIBED HEREIN, IN ORDER TO AMEND A PREVIOUSLY APPROVED PD IN ORDER TO REDEVELOP THE EASTERN PORTION OF THE SITE AND ALLOW ONE ADDITIONAL RESIDENTIAL UNIT; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

WHEREAS, Olde Naples Seaport, LLC, owner of property at 1001 10th Avenue South, has petitioned to change the zoning from PD to PD, in order to redevelop the eastern portion of the site and allow one additional residential unit; 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 5 to 0 that Rezone Petition 02-R3 be approved with conditions set forth herein; and

WHEREAS, after considering the recommendation of the Planning Advisory Board and providing the petitioner an opportunity to present testimony and evidence, the City Council finds that the criteria for granting the petition have been met and 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 02-R3 is hereby granted, for property located at 1001 10th Avenue South, Olde Naples Seaport, LLC, to amend a previously approved PD in order to redevelop the eastern portion of the site and allow one additional residential unit, said property more particularly described in Exhibit "A", attached hereto, subject to the following conditions:

1. The Planned Development Document for Olde Naples Seaport, LLC, a copy of which is attached hereto as Exhibit "B".
2. Site Plan and Building Elevations prepared by Architectural Network, Inc., dated July 15, 2002, Sheets A1-A6, attached hereto as Exhibit "C".
3. Landscape Plan prepared by J. Roland Lieber, P.A., dated July 15, 2002, Sheets L1 and L2, attached hereto as Exhibit "D".
4. An alternate palm or tree shall be placed on the west side of 10th Street, which is linear in form to grow past the power line.
5. The Declaration of Covenants and Restrictions enumerated in Exhibit "B" of the Planned Development Document, on file at the Planning Department Petition Nos. 02R3(02-054), shall not be modified and shall remain in full force and effect.

6. Sidewalks shall be constructed 8 foot in width with appropriate ramps to public streets and pavement markings.
7. Street lighting and landscaping in the right of way as and to the extent shown on the certain Site Plan dated July 15, 2002 (Project No. 02-31 prepared by Architectural Network, Inc.) shall be the financial responsibility of the property owner and completed prior to issuance of Certificate of Occupancy.
8. Water management plans shall comply with South Florida Water Management District standards for retention and detention.
9. During construction of the property, the property owner shall be responsible for appropriate maintenance of traffic and shall be subject to review and approval in accordance with the City right of way permit process.
10. The following language hereby amends and is an addition to page 4 of the PD document: "Until a building permit is issued for the improvements described in that certain site plan dated July 15, 2002 (Project #02-31 prepared by Architectural Network, Inc.) the uses marked with an asterisk(*) shall constitute permitted uses. However, upon issuance of such building permit, neither shall thereafter constitute a permitted use on the property."
11. The following language hereby amends and is an addition to Section 7 of the PD document: "Prior to the issuance of a certificate of Occupancy, documentation shall be provided to the city demonstrating that a condominium or homeowners association has been formed."
12. Any use of the property permitted under the Planned Development Document including, without limitation, outdoor dining, shall not violate the rights of public pedestrian ingress and egress created under that certain Public Access Easement dated July 30, 1991, and recorded August 14, 1991, in Official Records Book 1640, at page 516 of the Public Records of Collier County, Florida.
13. Public seating/benches (not including outdoor dining) shall be provided on the eastern portion of the project adjacent to the dedicated public easement. The amount of seating provided shall be equivalent to the arrangement that exists on site at the date of the subject project approval.

Section 2. 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.

Ordinance 02-9790

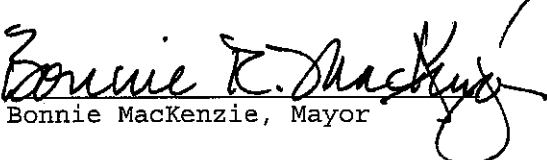
Page 3

Section 3. 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 4. This ordinance shall take effect immediately upon approval at second reading.

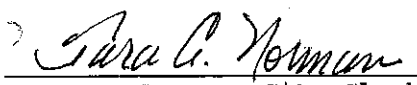
APPROVED AT FIRST READING THE 4TH DAY OF SEPTEMBER, 2002.

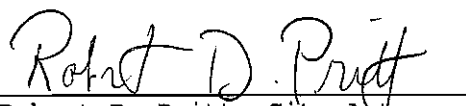
PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THIS 18TH DAY OF SEPTEMBER, 2002.


Bonnie MacKenzie, Mayor

Attest:

Approved as to form and legality:


Tara A. Norman, City Clerk


Robert D. Pritt, City Attorney

M:\REP\COUNCIL\ORD\02-9790

Date filed with City Clerk: 9/30/02

For the plans listed above, please refer to Supplemental Map Drawer #4.

I hereby certify that this page in the official records of the City of Naples was intentionally left blank.

Sara A. Norman
City Clerk

IMAGE01 : FL-02-13296-2 06/26/2002 02:22:35pm

OR: 2732 PG: 307A

EXHIBIT "A"LEGAL DESCRIPTION

PARCEL A: Lots 17 through 24, inclusive, Block 11, Tier 10, PLAN OF NAPLES, according to the Plat thereof, as recorded in Plat Book 1, at Page 8 of the public records of Collier County, Florida; and

PARCEL B: The South 160 feet of Block 11, Tier 11, PLAN OF NAPLES, according to the Plat thereof, as recorded in Plat Book 1, at Page 8 of the public records of Collier County, Florida; and

PARCEL C: All that part of Block 11, Tier 11 of the Town of Naples, according to the Plat thereof, as recorded in Plat Book 1, at Page 8, of the public records of Collier County, Florida, and being more particularly described as follows:

Commencing at the southwest corner of Block 11, Tier 11, of said Town of Naples; thence along the south line of said Block 11, Tier 11, North 90°00'00" East 187.00 feet to the POINT OF BEGINNING of the parcel herein described; thence North 25°13'43" East 134.24 feet to the face of a seawall and the Mean High Water line of Naples Bay; thence North 89°51'01" East 138.39 feet to a corner of said seawall; thence along said seawall and the Mean High Water line of said Naples Bay South 00°18'54" East 121.80 feet to the south line of said Block 11, Tier 11; thence along said south line South 90°00'00" West 196.28 feet to the POINT OF BEGINNING of the parcel herein described.

PARCEL D: All that part of Block 11, Tier 11 of the Town of Naples, according to the Plat thereof, as recorded in Plat Book 1, at Page 8, of the public records of Collier County, Florida, and being more particularly described as follows:

Commencing at the southwest corner of Block 11, Tier 11, of said Town of Naples; thence along the south line of said Block 11, Tier 11, North 90°00'00" East 90.00 feet to the POINT OF BEGINNING of the parcel herein described; thence North 23°42'14" East 132.34 feet to the face of a seawall and the Mean High Water line of Naples Bay; thence along said seawall North 89°51'01" East 101.02 feet; thence South 25°13'43" West 134.24 feet to the south line of said Block 11, Tier 11; thence along said south line South 90°00'00" West 97.00 feet to the POINT OF BEGINNING of the parcel herein described.

PARCEL E: That portion of the easterly 266.67 feet of the 20 foot wide, east-west alley located on the west of, and perpendicular to Tenth Street South, between Ninth and Tenth Avenues, more particularly described as follows:

The South 1/2 of the easterly 266.67 feet of the 20 foot alley in Block 11, Tier 10 of the PLAN OF NAPLES, a subdivision recorded in Plat Book 1, at Page 8 of the public records of Collier County, Florida, bounded on the west by the northerly extension of the west line of Lot 17, of said Block 11.

OLDE NAPLES SEAPORT
PLANNED DEVELOPMENT DOCUMENT

Prepared for:

OLDE NAPLES SEAPORT, LLC

Date Submitted: _____

Date Approved: _____

Ordinance No. _____

DEVELOPMENT CRITERIA AND STANDARDS

SECTION ONE: Introduction and Purpose

Coconut Grove on Naples Bay, Ltd. d/b/a Old Naples Seaport ("the Seaport") is an existing mixed use facility located at the intersection of Tenth Street South and Tenth Avenue South in Naples, Florida, and is an approved facility for restaurant, retail, office and marina uses pursuant to the City of Naples Ordinance Number 90-3425 as amended by PD Ordinance Numbers 95-7348, 95-7374, 95-7413, 95-7733, and 00-8771 (the "Seaport PD Ordinance"). The purpose of this document is to amend the Seaport PD Ordinance to redevelop the site and include a residential component in accordance with the terms and conditions of this document and its exhibits. The size of the residential component is depicted on the Site Plan which accompanies this document (the "Site Plan"). Potable water and sewer service will be provided by the City of Naples through existing water mains and gravity collection systems. This PD Document is a consolidation of all previous development approvals for the Property and supersedes all previous approvals.

SECTION TWO: Legal Description

The legal description of Old Naples Seaport which is hereby submitted to this Planned Development Document is attached as Exhibit "A" (the "Property").

SECTION THREE: Development Standards

A. PERMITTED USES

1. Art or photograph studios.
2. Bakery, retail (baking on premises with all baked goods sold at retail on premises).
3. Boat and marine motor sales, rentals (including slip rentals) or display.
4. Boat yards and ways.
5. Fish and seafoods; wholesale or retail sales.
6. Fishing boats, including charter boats.
7. Marinas (incidental loading and unloading of marine supplies is permitted provided it is accessory and subordinate to the principal use).
8. Marine oriented research, development and testing operations.

9. Parking lots (noncommercial; no meters or on-site parking fee collection).
10. Personal service establishments such as barber and beauty shops.
11. Professional and business offices (no drive-up or drive-through windows).
12. Repair servicing of boating accessories and marine equipment, provided that all such activities are conducted either under roof, in rear yards, or at dockside, or are screened from off-premises view by an ornamental buffer.
13. Residential uses which are part of a mixed use development and are not located on the ground floor.
14. Restaurants, conventional, or restaurants, carry-out; no drive through windows.
15. Retail sales establishments, other than shopping centers. Sales establishments, may include incidental processing, repair and rental activities except rental of motor vehicles which require a conditional use, provided they are accessory and subordinate to the retail sales uses, and provided that display, storage, processing, and repair of merchandise occurs within the principal building.
16. Yacht or sailing clubs.
17. Restaurant entrance is approved as depicted on the Site Plan. The entrance may be changed from time to time. The Restaurant is permitted to have an awning (with its name depicted) extending from its balcony to the right-of-way of the cul-de-sac.
18. Valet parking pick up and drop off shall be permitted at the end of 10th Avenue South at the existing edge of pavement for the cul-de-sac as depicted on the attached Site Plan.
19. The Property is permitted for a maximum of 2 restaurant liquor licenses.
20. Commercial boating activity such as tour/charter/rental boats, etc.
21. The Property is permitted to have transient boating activities. The definition of "Live-aboards" is as follows: Live-aboards are vessels permanently moored and occupied as a permanent residence or domicile.
22. Bicycle rentals are permitted.
23. Private and retail sales of boats are permitted so long as the vessel available for sale is located in the water.

24. Boat docks as noted and which location is identified on the attached Site Plan including, without limitation, eight boat slips on the eastern end of the north canal on the Property.
25. The Property is approved for utilization of all encroachments on the riparian rights of the City as depicted on the attached site plan.
- * 26. The Property is approved for an outdoor dining area of approximately 700 square feet on the east side of the building and a balcony over the first floor outside dining area that covers approximately 848 square feet. The balcony extends eight feet over the existing setback to the edge of the eastern seawall. It may not extend over the environmental boardwalk.
- * 27. The Property is permitted to use the City right-of-way for a second floor balcony of approximately 900 square feet which encroaches into the City right-of-way by approximately 8 feet.
28. The mix between residential uses and square footage dedicated to retail, office and restaurant use will vary as dictated by market demand and compliance with the City's parking codes. Provided that the building footprint as depicted on the attached site plan does not substantially change, no further site plan approval will be required.
29. Storm water management.
30. Landscape/Open Buffer areas.
31. Off-street parking.
32. Accessory uses and structures which are incidental to and customarily associated with the permitted uses. 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.)

* Until a building permit is issued for the improvements described in that certain site plan dated July 15, 2002 (Project #02-31 prepared by Architectural Network, Inc.) the uses marked with an asterisk (*) shall constitute permitted uses, but upon issuance of such building permit neither shall thereafter constitute a permitted use on the Property.

B. PARKING

The City of Naples Land Development Code shall generally govern the development of the Seaport property. Where there are specific provisions set forth herein, this document shall

supersede the regulation set forth in the City of Naples Land Development Code; otherwise, the most analogous section of the Land Development Code shall apply.

A. Parking:

1. Parking shall be provided in accordance with the City of Naples Land Development Code, as depicted on the Site Plan attached hereto, and as set forth herein. Where there are specific provisions set forth herein, this document shall supersede the regulation set forth in the Land Development Code. It is the intent of the property owners to encourage pedestrian oriented access to the commercial portion of the project. Therefore, the following provisions are set forth for parking standards:
 - (a) Restaurants and Cocktail Lounges:
1 space per 100 square feet of gross building area.
 - (b) Retail Activities:
1 space per 300 square feet of gross building area.
 - (c) Office Space:
1 space per 300 square feet of gross building area.
 - (d) Residential Units:
2 spaces per residential unit.
 - (e) Marina Uses:
1 space per 4 boat slips for private slips;
1 space per 4 seats or occupants for commercial usage.
2. In calculating parking for conformance with the requirements set forth herein, credits toward parking space requirements have been granted and are hereby ratified and confirmed as follows:
 - (a) 4 spaces for Patron Tie Ups.
 - (b) 5.05 spaces for Public Access calculated at the rate of 5% x the number of parking spaces located on the portion of the Property on the west side of 10th Street as the number of parking spaces may fluctuate from time to time up to a maximum of 6 parking space credits.
 - (c) 15.15 spaces for Unrestricted Access calculated at the rate of 15% x the number of parking spaces located on the portion of the Property

on the west side of 10th Street as the number of parking spaces may fluctuate from time to time up to a maximum of 16 parking space credits.

- (d) 1 space for bicycle rack.
- (e) 8 spaces for previous construction of 16 offsite right-of-way parking spaces.

Total credits toward parking space requirements (based on existing number of parking spaces): 33.2 spaces.

C. DENSITY

Maximum Density shall not exceed 8 residential units per acre on the Property.

D. MAXIMUM HEIGHT

Maximum height shall be 35 feet measured vertically from the established 100 year flood elevation to the ceiling of the highest story, plus six feet from the ceiling to the highest point of a flat roof, parapet wall or mansard detail, or six feet from the ceiling to the mean distance between the eaves and the ridge of a gable, hip or gambrel roof.

E. MINIMUM YARDS:

Minimum required setbacks shall be as follows:

1. 10th Street South - 14 feet.
2. 10th Avenue South - 0 feet.
3. East property line - 0 feet.
4. North property line 0 feet.

F. MAXIMUM LOT COVERAGE

Maximum lot coverage shall be 40% for the residential portion of the Property and 50% for the marina portion of the Property. The lot coverage shown on the Site Plan meets this maximum lot coverage requirement.

G. LANDSCAPING

The existing landscape will remain in place except in those areas where the new structures will be built. In those areas where new landscaping is to be installed Chapter 106 of the City of Naples Comprehensive Development Code for landscaping shall apply. The Property owner may substitute types of plant materials from any approved landscaping plan with the approval of the Planning Director.

H. ADDITIONAL DEVELOPMENT COMMITMENTS WHICH HAVE ALREADY BEEN MET

1. Provide the City with the public access easement and drainage easement as noted on the attached site plan.
2. An education walkway along the perimeter of the City park, including signage and several benches is permitted.

I. FUTURE TRANSFER OF OWNERSHIP

Future transfer of ownership shall comply with the City of Naples Subdivision Regulations. There shall be no minimum setback requirements between structures located or proposed to be located on the Property either before or after a future transfer of ownership of all or any part of the Property. Signage for all or any part of the Property may be located on any part of the Property as if there had not been a future transfer of ownership of all or any part of the Property so that an existing or later proposed sign shall not be considered "offsite" if there is a future transfer of ownership of part of the Property, as long as that sign is located somewhere on the Property.

SECTION FOUR: General Site Plan

The attached Site Plan is an integral part of this PD document. Any revisions to the Site Plan shall be required to follow the procedures for adopting a Site Plan set forth in the Comprehensive Development Code. Location and configuration of structures and facilities are approximate, and may be adjusted and refined as required by detailed architectural and engineering plans and permitting requirements provided they are not defined as a substantial variation as defined in the City's Code of Ordinances.

SECTION FIVE: Future Approvals

Revisions to the existing grading and water management plans shall be reviewed and approved by appropriate City staff prior to the issuance of a building permit for a residential use on the Property.

Department of Environmental Protection and City of Naples permits will be required for the docks in the canal prior to the issuance of a building permit for any of those docks.

SECTION SIX: Conditions of Approval

The following shall constitute conditions to approval of this Planned Development Document:

- A. Water management plan will need final approval.
- B. DEP and City permits will be needed to reconfigure the docks in Snook Canal.
- C. The public easement to circumnavigate the property shall be retained.
- D. Landscaping on the north side of the property shall be enhanced.

SECTION SEVEN: Common Ownership Areas

Areas proposed for common ownership shall be subject to reliable and continuing maintenance guarantees through the formation of condominium or homeowner associations which are Florida not for profit corporations with perpetual existence.

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City of Naples was intentionally left blank.



City Clerk