

**Agenda Item 13.A
Meeting of 9/15/21****ORDINANCE 2021-14705**

AN ORDINANCE DETERMINING REZONE TO PLANNED DEVELOPMENT PETITION 21-R3, REZONING APPROXIMATELY 14.5 ACRES FROM PD PLANNED DEVELOPMENT (NAMED PARK SHORE PLANNED DEVELOPMENT) TO A NEW PD PLANNED DEVELOPMENT KNOWN AS NEAPOLITAN WAY PLAZA ON PROPERTY OWNED BY NEW MARKET – NEAPOLITAN, LLC, A DELAWARE LIMITED LIABILITY COMPANY, LOCATED AT 4601 9TH STREET NORTH AND 866 NEAPOLITAN WAY MORE PARTICULARLY DESCRIBED HEREIN; ADOPTING THE PLANNED DEVELOPMENT DOCUMENT INCLUDED HEREIN; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

WHEREAS, New Market – Neapolitan, LLC, a Delaware limited liability company, has petitioned to rezone an approximately 14.5-acre portion of the Park Shore Planned Development from PD, Planned Development to a new PD, Planned Development known as Neapolitan Way Plaza; and

WHEREAS, New Market – Neapolitan, LLC, a Delaware limited liability company, owner of the property located at 4601 9th Street North and 866 Neapolitan Way, has authorized John M. Passidomo, Esq., Cheffy Passidomo, P.A. as agent for this petition; and

WHEREAS following an advertised public hearing on June 9, 2021, the Planning Advisory Board considered the public input, staff recommendations, and criteria in the Code of Ordinances and recommended by a vote of 7 to 0 that Rezone to Planned Development Petition 21-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 Petition 21-R3 should be approved;

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

Section 1. That Rezone to Planned Development Petition 21-R3, rezoning approximately 14.5 acres from PD, Planned Development (Park Shore Planned Development) to a new PD, Planned Development known as Neapolitan Way Plaza on the property owned by New Market – Neapolitan, LLC, a Delaware limited liability company, located at 4601 9th Street North and 866 Neapolitan Way, is approved, said property more particularly described in Exhibit "A", attached hereto; and in accordance with the Planned Development Document, named Neapolitan Way Plaza attached hereto as Exhibit "B" and incorporated herein.

Section 2. 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 3. That 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. However, if any word, phrase, clause, subsection, or section is determined to be an unreasonable condition affecting the overall development plan contained herein, it shall not be severed.

Section 4. Repealer. That this PD Ordinance adopting this Planned Development document shall supersede and take priority over the existing Planned Development Ordinance and any portions of the Naples Land Development Code which conflict with this PD Ordinance.

Section 5. That this ordinance will take effect immediately upon adoption at second reading.

APPROVED AT FIRST READING AND PUBLIC HEARING THIS 18TH DAY OF AUGUST 2021.

PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THE 15TH DAY OF SEPTEMBER 2021.

Attest:

Patricia L. Rambošk
 Patricia L. Rambošk, City Clerk

Teresa Lee Heitmann
 Teresa Lee Heitmann, Mayor

Approved as to form and legality:

Nancy A. Stuparich
 Nancy A. Stuparich, City Attorney

Date filed with City Clerk: 10-8-21

Exhibit A to Ordinance

LEGAL DESCRIPTION

PARCEL 1:

ALL OF BLOCK 29, PARK SHORE UNIT NO. 4, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 10, PAGES 101 TO 103, INCLUSIVE, OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA; LESS AND EXCEPT THAT CERTAIN PROPERTY WHICH WAS CONVEYED BY WARRANTY DEED RECORDED JANUARY 7, 1987 IN OFFICIAL RECORD BOOK 1242, PAGE 2180, OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA.

PARCEL 2: (EASEMENT PARCEL)

TOGETHER WITH THE EASEMENT AS SET FORTH IN NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY MUTUAL GRANT OF EASEMENT RECORDED JULY 2, 1985 IN OFFICIAL RECORDS BOOK 1144, PAGE 253, OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA, FOR THE PURPOSE OF INGRESS AND EGRESS OVER AND ACROSS THE LAND DESCRIBED ON EXHIBIT B THEREIN.

PARCEL 3: (FEE PARCEL)

DESCRIPTION OF PART OF BLOCK 30, PARK SHORE UNIT NO. 4, (P.B. 10, PAGES 101-103) AND LOT 16 OF NORTH NAPLES ESTATES (P.B. 1, PAGE 81), COLLIER COUNTY, FLORIDA.

(COMMERCIAL PARCEL)

LOT 16 OF NORTH NAPLES ESTATES, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 1, PAGE 81, OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA;

ALONG WITH

BLOCK 30 OF PARK SHORE UNIT NO. 4, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 10, PAGES 101-103; COLLIER COUNTY PUBLIC RECORDS, COLLIER COUNTY, FLORIDA;

LESS AND EXCEPTING THEREFROM THE WESTERLY 200 FEET THEREOF BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT PART OF BLOCK 30, PARK SHORE UNIT NO. 4, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 10, PAGES 101-103, COLLIER COUNTY PUBLIC RECORDS, COLLIER COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID BLOCK 30; THENCE ALONG THE WEST LINE OF SAID BLOCK 30 IN THE FOLLOWING FIVE (5) COURSES;

- 1) NORTH 0° 30' 00 " WEST, A DISTANCE OF 50.00 FEET;
- 2) NORTHERLY 71.84 FEET ALONG THE ARC OF CIRCULAR CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 272.89 FEET AND BEING SUBTENDED BY A CHORD WHICH BEARS NORTH 7° 02' 30 " EAST, A DISTANCE OF 71.63 FEET;
- 3) NORTH 14° 35' 00 " EAST, A DISTANCE OF 32.78 FEET;
- 4) NORTHERLY 91.84 FEET ALONG THE ARC OF A CIRCULAR CURVE CONCAVE TO THE WEST, HAVING A RADIUS OF 345.37 FEET AND BEING SUBTENDED BY A CHORD WHICH BEARS NORTH 6°57'55 " EAST, A DISTANCE OF 91.57 FEET;

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5) NORTH 0° 39' 10 " WEST, A DISTANCE OF 83.82 FEET TO THE NORTHWEST CORNER OF SAID BLOCK 30; THENCE ALONG THE NORTH LINE OF SAID BLOCK 30, NORTH 89°39'50 " EAST, A DISTANCE OF 200.00 FEET; THENCE LEAVING SAID NORTH LINE, SOUTH 0°39'10 " EAST, A DISTANCE OF 82.72 FEET; THENCE SOUTHERLY 145.03 FEET ALONG THE ARC OF A CIRCULAR CURVE CONCAVE TO THE WEST, HAVING A RADIUS OF 545.37 FEET AND BEING SUBTENDED BY A CHORD WHICH BEARS SOUTH 6° 57' 55 " WEST, A DISTANCE OF 144.60 FEET; THENCE SOUTH 14°35'00 " WEST, A DISTANCE OF 32.78 FEET; THENCE SOUTHERLY 19.19 FEET ALONG THE ARC OF A CIRCULAR CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 72.89 FEET AND BEING SUBTENDED BY A CHORD WHICH BEARS SOUTH 7° 02' 30 " WEST, A DISTANCE OF 19.13 FEET; THENCE SOUTH 0° 30' 00 " EAST, A DISTANCE OF 50.00 FEET TO THE SOUTH LINE OF SAID BLOCK 30; THENCE ALONG THE SOUTH LINE OF SAID BLOCK 30, SOUTH 89° 30' 00 " WEST, A DISTANCE OF 200.00 FEET TO THE SOUTHWEST CORNER OF SAID BLOCK 30 AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

PARCEL 4: (EASEMENT PARCEL)

TOGETHER WITH THE EASEMENT AS SET FORTH IN NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 2 AS CREATED BY GRANT OF EASEMENT DATED APRIL 10, 1986 AND RECORDED APRIL 18, 1986 IN OFFICIAL RECORDS BOOK 1189, PAGE 2210, OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA FOR THE PURPOSE OF LOCATING, PLACING, CONSTRUCTION, MAINTAINING AND TO KEEP REPAIR THE NECESSARY FOOTINGS AND LATERAL SUPPORTS TO A PRIVACY BUFFER WALL OVER, UNDER AND ACROSS THE TWENTY FOOT (20') WIDE BUFFER AREA AS DESCRIBED THEREIN.

Exhibit B to Ordinance

PLANNED DEVELOPMENT DOCUMENT

FOR

NEAPOLITAN WAY PLAZA

Date of Submittal: March 29, 2021
Amended August 24, 2021

Prepared by: Cheffy Passidomo, P.A.

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SECTION I

LEGAL DESCRIPTION

The legal description of the Property is:

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BEGINNING AT THE SOUTHWEST CORNER OF SAID BLOCK 30; THENCE ALONG THE WEST LINE OF SAID BLOCK 30 IN THE FOLLOWING FIVE (5) COURSES;

- 1) NORTH 0° 30' 00" WEST, A DISTANCE OF 50.00 FEET;

- 2) NORTHERLY 71.84 FEET ALONG THE ARC OF CIRCULAR CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 272.89 FEET AND BEING SUBTENDED BY A CHORD WHICH BEARS NORTH 7° 02' 30" EAST, A DISTANCE OF 71.63 FEET;
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- 5) NORTH 0° 39' 10" WEST, A DISTANCE OF 83.82 FEET TO THE NORTHWEST CORNER OF SAID BLOCK 30; THENCE ALONG THE NORTH LINE OF SAID BLOCK 30, NORTH 89°39'50" EAST, A DISTANCE OF 200.00 FEET; THENCE LEAVING SAID NORTH LINE, SOUTH 0°39'10" EAST, A DISTANCE OF 82.72 FEET; THENCE SOUTHERLY 145.03 FEET ALONG THE ARC OF A CIRCULAR CURVE CONCAVE TO THE WEST, HAVING A RADIUS OF 545.37 FEET AND BEING SUBTENDED BY A CHORD WHICH BEARS SOUTH 6° 57' 55" WEST, A DISTANCE OF 144.60 FEET; THENCE SOUTH 14°35'00" WEST, A DISTANCE OF 32.78 FEET; THENCE SOUTHERLY 19.19 FEET ALONG THE ARC OF A CIRCULAR CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 72.89 FEET AND BEING SUBTENDED BY A CHORD WHICH BEARS SOUTH 7° 02' 30" WEST, A DISTANCE OF 19.13 FEET; THENCE SOUTH 0° 30' 00" EAST, A DISTANCE OF 50.00 FEET TO THE SOUTH LINE OF SAID BLOCK 30; THENCE ALONG THE SOUTH LINE OF SAID BLOCK 30, SOUTH 89° 30' 00" WEST, A DISTANCE OF 200.00 FEET TO THE SOUTHWEST CORNER OF SAID BLOCK 30 AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

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(the "Property").

SECTION II
DEVELOPMENT STANDARDS

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, for other than the following, and all merchandise shall be stored and displayed in an enclosed building:

- (1) General retail sales establishments. Retail sales establishments may include incidental processing, repair and rental services except rental of motor vehicles which requires a conditional use, provided they are accessory and subordinate to the retail sales use, and provided that all storage, processing and repair of merchandise occurs within the principal building. Retail sales of secondhand merchandise shall require conditional use approval.
- (2) Art or photography studios.
- (3) Bakery, retail, with baking on the premises, with all baked goods sold at retail on the premises.
- (4) Convenience service establishments such as tailoring, garment alteration and repair, shoe repair and the like.
- (5) Financial institutions, excluding drive-up windows, which are permitted only by conditional use petition approval.
- (6) Laundry or dry cleaning pickup establishments, with no laundering or dry cleaning on the premises.
- (7) Medical offices or clinics (not animal).
- (8) Parking lots, noncommercial, with no meters or on-site parking fee collection.
- (9) Personal service establishments such as barbershops and beauty shops.
- (10) Professional, business, financial, civic or public utility offices.
- (11) Restaurants, conventional, with or without cocktail lounges. Dancing or staged entertainment facilities are permitted only by conditional use petition approval.
- (12) Accessory uses or structures which are incidental to and customarily associated with the permitted uses in this district listed in subsections (1) through (11) of this section.

Conditional uses.

Conditional uses are as follows:

- (1) Amusement parlors having coin-operated amusement games.
- (2) Automobile agencies franchised to sell new automobiles.
- (3) Bowling alleys.
- (4) Child care centers.
- (5) Churches.
- (6) Cultural facilities, including libraries or museums, and publicly owned buildings.
- (7) Drive-up windows which are accessory to permitted uses.
- (8) Gasoline service stations. See chapter 56 for regulations pertaining to gasoline service stations.
- (9) Motion picture theaters or live theaters (no drive-in theaters).
- (10) Nursing, rest or community residential homes. Maximum density shall not apply to nursing homes, rest homes or group homes in Highway Commercial District; except that, when nursing homes include any units with kitchens or cooking facilities, the maximum density for such facilities shall be 18 units per net acre.
- (11) Parking garages.
- (12) Pool or billiard parlors.
- (13) Residential dwelling units when such dwelling units are compatible with a permitted use and are located within the same building or group of buildings as the permitted use (up to eight units per net acre).
- (14) Schools and colleges, and commercial schools.
- (15) Transient lodging facilities (up to 26 units per net acre).
- (16) Cocktail lounges.
- (17) Rental of motor vehicles accessory and subordinate to the retail sales use.
- (18) Retail sale of secondhand merchandise.
- (19) Funeral homes, with or without crematories.
- (20) On-site laundry and dry cleaning services.

The planning advisory board may, through the review and approval of a conditional use petition and with the approval of the city council, permit other uses which are similar to and no more intense than those enumerated for this district.

Minimum lot area.

Minimum lot area is 30,000 square feet.

Minimum lot width.

Minimum lot width is 150 feet.

Minimum yards required.

Minimum yards are as follows:

- (1) Front yard: 20 feet, all of which shall be landscaped in accordance with the landscaping requirements of chapter 50.
- (2) Side yard: 10 feet, except where the adjoining lot is in a residential district, in which case a minimum side yard of 25 feet shall be provided.
- (3) Rear yard: 25 feet.

Minimum floor area.

Minimum floor area is as follows:

- (1) Nonresidential buildings: 1,000 square feet per building on the ground floor.
- (2) Transient lodging facilities:
 - a. Dwelling units without cooking facilities: 300 square feet.
 - b. Dwelling units with cooking facilities: 400 square feet.
- (3) Residential units: 600 square feet per unit.

Maximum height.

The maximum height shall be limited to 3 stories and 42 feet, measured from the 1st-floor FEMA elevation to the peak of the roof or the highest point of any appurtenance attached to the roof, except that the development of any property adjacent to or across the street from any R1 zoned property shall be limited to 2 stories in height.

Minimum off-street parking.

Minimum required off-street parking for the Property is 640 parking spaces subject to the following conditions (collectively, the "Parking Conditions"):

- a. There shall be a maximum of 146,500 square feet of gross floor area of interior commercial space on the Property;

- b. There shall be a maximum of 84,000 square feet of gross floor area of interior commercial space on the part of the Property located north of Neapolitan Way;
- c. There shall be a maximum of 62,500 square feet of gross floor area of interior commercial space on the part of the Property located south of Neapolitan Way;
- d. There shall be a maximum of 23,664 square feet of gross floor area of commercial space used for restaurants, cocktail lounges or clubs which serve food or beverages (excluding outdoor dining) on the Property;
- e. There shall be a maximum of 9,000 square feet of gross floor area of restaurants, cocktail lounges or clubs which serve food or beverages (excluding outdoor dining) on the part of the Property located north of Neapolitan Way;
- f. Pursuant to Resolution 2018-14262, there shall be a maximum of 14,664 square feet of gross floor area of restaurants, cocktail lounges or clubs which serve food or beverages (excluding outdoor dining) on the part of the Property located south of Neapolitan Way which the parties acknowledge is the best estimate of existing square footage of such uses on the part of the Property located south of Neapolitan Way;
- g. There shall be a maximum of 4,800 square feet of outdoor dining on the Property;
- h. There shall be a maximum of 2,200 square feet of outdoor dining on the part of the Property located north of Neapolitan Way;
- i. There shall be a maximum of 2,600 square feet of outdoor dining on the part of the Property located south of Neapolitan Way;
- j. There shall be a maximum of 52,000 square feet of gross floor area of grocery stores on the Property; and
- k. Parking for bowling alleys, theaters, or transient lodging facilities on the Property shall be determined according to the parking requirements for each use established in the Naples Code of Ordinances.

The Parking Conditions are intended to stipulate conditions under which the aforementioned minimum off street parking of 640 parking spaces on the Property is permitted. The Parking Conditions shall not otherwise limit the nature or extent of permitted or conditional uses on the Property.

No parking shall be permitted in required front yard areas.

Maximum lot coverage by all buildings.

Maximum lot coverage by all buildings is 30 percent.

Landscaping.

In addition to the parking, vehicular use and front yard setback area landscaping requirements, all areas not improved for parking per city ordinance requirements, or occupied by a structure, paved walkway or the like, shall be landscaped in accordance with the landscaping requirements of chapter 50.

Signage.

The general requirements and maximum size of wall, integral roof, canopy, awning or marquee for the grocery store on the Property are depicted on the attached Schedule A which is incorporated herein by reference. Wall, integral roof, canopy, awning or marquee signage for the grocery is prohibited on its southern façade facing Neapolitan Way. In every other respect, chapter 50 of the Naples Code of Ordinances regulates signage.

SECTION III**CONFLICTING REGULATIONS**

The regulations contained in this Planned Development Document take priority over any minimum yard, maximum height, parking, lot coverage, density, intensity, commencement of construction or other regulations contained in the Naples Code of Ordinances. To the extent that this Planned Development Document does not stipulate a regulation, the regulations of the Naples Code of Ordinances on the effective date of the Planned Development Ordinance which adopts this Planned Development Document shall apply. A change to the development plan approved with the Planned Development Ordinance which adopts this Planned Development Document which does not consist of an increase of total floor area of greater than ten percent above that approved by City Council, an increase in residential density, an addition of permitted or conditional uses or a substantial change to traffic circulation, landscaping or parking will not require review and approval by City Council in the same manner as an original application for establishment of a PD District. Changes that do not meet the foregoing thresholds may require design review and site plan review. Notwithstanding anything in the foregoing to the contrary, the initial site plan for the Property will require City Council review and approval, and any substantial change to the initial site plan for the Property approved by City Council may at the discretion of the City Manager require City Council review and approval, under standards prescribed in Sec. 46-33 of the Naples Code of Ordinances.

SECTION IV

COMMENCEMENT OF CONSTRUCTION

Construction has commenced under Planned Development Ordinance Nos. 2792 and 85-4769 which previously governed development on the Property. Time limitations prescribed under Sec. 58-810 of the Naples Code of Ordinances accordingly do not apply to the Property.

SECTION V

STORMWATER CONSTRUCTION STANDARDS

Northern Parcel.

Owner acknowledges that redevelopment of the 8.37 acre parcel comprising the part of the Property located north of Neapolitan Way (the "Northern Parcel") constitutes "new development", "remodeling or redevelopment" or "substantial improvement" of the Northern Parcel as the terms "new development", "remodeling or redevelopment" and "substantial improvement" are defined in City of Naples Ordinance 2021-14654 (the "Stormwater Ordinance"). Upon redevelopment of the Northern Parcel, the owner of the Northern Parcel shall accordingly comply with the water quantity and water quality criteria prescribed in a site plan for the Northern Parcel approved by Naples City Council in conjunction with City Council's adoption of the Planned Development Ordinance approving this Planned Development Document.

Southern Parcel.

The 6.13 acre parcel comprising the part of the Property located south of Neapolitan Way (the "Southern Parcel") shall comply with water quantity and water quality criteria prescribed in the Stormwater Ordinance upon "new development", "remodeling or redevelopment" or "substantial improvement" of the Southern Parcel as the terms "new development", "remodeling or redevelopment" and "substantial improvement" are defined in the Stormwater Ordinance, as amended from time to time.

SECTION VI

URBAN STORMWATER MANAGEMENT PROGRAM

Upon South Florida Water Management District (the "District") issuance of a stormwater management permit for the Northern Parcel (the "Permit"), the owner of fee simple title to the Property shall comply with the requirements of any Urban Stormwater Management Program required under the Permit on both the Northern Parcel and the Southern Parcel of the Property, notwithstanding the fact that the Permit applies only to the Northern Parcel. The Urban Stormwater Management Program will include requirements for street sweeping, nutrient and pest management, solid waste management, stormwater management system inspection and maintenance, and report annual stormwater sampling taken at point of discharge to the city's Streets and Stormwater Director, and the owner shall annually provide the city with a monitoring report evidencing the owner's compliance with the Urban Stormwater Management Program.

