

B.P.

**TYPE OF PETITION:**

Rezoning to Planned Development

**Petition No.** 99-22 (99-008)

**Amount Received** \_\_\_\_\_

**PETITIONER:** Mark J. Woodward, Jr. & Sanford C. Thalheimer, Co. Jr.  
northeast corner of the intersection of U.S. 41 & Ridge Road  
Agents: David Humphrey & Anthony Pineda

ACTION	DATE
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All necessary data received	12/14/98
Departmental Reviews distributed	12/17/98
Legal Notice to paper	12/23/98
Legal Notice in paper	12/29/98
Legal Notice to property owners	12/28/98
Agenda mailed	1/7/99
Sign posted on property	1/7/99
PAB Recommendation	Approved w/ staff recomm. 1/13/99
Council Decision	Approved, 1 <sup>st</sup> reading 2/3/99 7-0 Approved, 2 <sup>nd</sup> reading 2/17/99 7-0
ORDINANCE NO.	99-8472
RESOLUTION NO.	_____

7-0

Comments:

Agenda Item 8-c  
Meeting of 2/17/99

**ORDINANCE 99-8472**

AN ORDINANCE GRANTING REZONE PETITION 99-R2 IN ORDER TO REZONE PROPERTY LOCATED AT THE NORTHEAST CORNER OF U.S. 41 AND RIDGE STREET FROM "HC," HIGHWAY COMMERCIAL (CITY) AND "C-4," GENERAL COMMERCIAL (COUNTY) TO "PD," PLANNED DEVELOPMENT, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Mark J. Woodward and Sanford C. Thalheimer, petitioners and owners, have requested to rezone said property from "HC," Highway Commercial (City) and "C-4," General Commercial (County) to "PD," Planned Development; 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 7 to 0 that Rezone Petition 99-R2 be approved subject to a number of 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 an opportunity to speak, 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 99-R2 is hereby granted in order to rezone the property at the Northeast corner of U.S. 41 and Ridge Street from "HC," Highway Commercial (City) and "C-4," General Commercial (County) to "PD," Planned Development, more particularly described as follows:

Lots 40, 42, 44, 46, 48, and 50, Rosemary Heights Addition, according to the map or plat thereof as recorded in Plat Book 1, page 78, Public Records of Collier County, Florida.

Section 2. Development shall be in compliance with the standards outlined in the Planned Development document, attached hereto.

Section 3. The final site plan submitted for building permits shall indicate a twenty-five foot side yard setback to the east of the property.

Section 4. This ordinance shall take effect immediately upon, and only upon, the consideration and adoption by the City Council, and the subsequent effective date, of an ordinance adopting a small scale Comprehensive Plan amendment to amend the Future Land Use Map of the Comprehensive Plan, assigning a Highway Commercial Future Land Use designation to Lot 50, Rosemary Heights Addition.

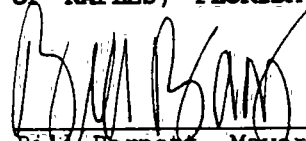
APPROVED AT FIRST READING THIS 3RD DAY OF FEBRUARY, 1999.

PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR

Ordinance 99-8472

Page 2


SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, THIS 17TH DAY OF  
FEBRUARY, 1999.

  
\_\_\_\_\_


Bill Barnett, Mayor

Attest:

Approved as to form and legality:

  
\_\_\_\_\_

Tara A. Norman, City Clerk  
M:\REF\COUNCIL\ORD\99-8472

  
\_\_\_\_\_

Kenneth B. Cuyler, City Attorney

## NARRATIVE FOR PD PETITION

The proposed uses are compatible with existing and surrounding uses. The property to the North is developed as a hotel site with the Hampton Inns building. To the south is a Peabody's restaurant; and to the West is six-laned U.S. 41 (S.R. 45). The proposed general commercial uses on this property, located on a major arterial and adjacent to other compatible commercial uses, are thus appropriate for this site. The proposed building and parking layout is compatible with and recognizes the residential use to the East as the building in this project is proposed to be set back almost 100 feet from the residential parcel.

The existing County C-4 zoning district provides for a maximum height of 100 feet contrasted with the three stories (35) feet maximum height proposed in the PD.

The project will be constructed and operated as a commercial condominium project with a condominium association that will maintain the common areas. The owners of the unit may either use the units themselves or lease them to others. The condominium association will be a reliable entity for the continuing maintenance of the common area improvements.

- A. The name, address, and telephone number of the land owner(s) are outlined in the Petition. David Humphrey of David Humphrey & Associates is the project architect. Woodward, Pires & Lombardo, P.A. are the agent's attorneys
- B. The proposed planned land uses including approximate gross and leaseable square footage of floor area: 15,000 gross square feet; general retail commercial and office building.
- C. The tabulations of total gross acreage in the project and the percent of site coverage by all buildings: 40,974 square feet of land; Building Coverage is 7,350 square feet which is 17.6% (30% allowed).
- D. As to the availability and adequacy of public utilities including potable water, water pressure for fire fighting purposes, and sanitary sewer services, there is a fire hydrant to the South on Ridge Street and potable water and sanitary sewer service are available.
- E. As to the basic water management strategy to be employed, it is contemplated that it will consist of surface retention.

- F. As to a development schedule indicating the approximate date when construction of the project can be expected to begin and end and, if developed in stages, designation of estimated stages and time schedules, it is anticipated that the design will be finalized by March 15, 1999, with a building permit issued on approximately April 15, 1999. Once construction commences, it is anticipated that it will take 8 to 10 months to complete. Such dates are approximations only and are dependent upon a number of variables and thus may vary.
- G. There are no areas currently contemplated to be conveyed, dedicated, or reserved for public or semipublic purposes

1. **Use Restrictions.**

The development of the Property shall be governed by the following:

**A. Purpose**

The Property shall be used for general commercial development.

**B. Permitted Uses**

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 require 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.
- (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 listed in subsections (1) through (11) above.

**C. Conditional uses.**

Conditional uses of the Property are as follows:

- (1) Amusement parlors having coin-operated amusement games.
- (2) Child care centers.
- (3) Cultural facilities, including libraries or museums, and publicly owned buildings.
- (4) Dancing or staged entertainment.
- (5) Drive-up windows which are accessory to permitted uses.
- (6) Nursing, rest or group homes.
- (7) Parking garages accessory to a permitted use.
- (8) 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.
- (9) Schools and colleges, and commercial schools.
- (10) Transient lodging facilities (with the maximum number of units in conformance with applicable provisions of the City's Comprehensive Development Code).
- (11) Cocktail lounges.
- (12) 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 above.

**D. Prohibited uses.**

Prohibited uses of the Property are as follows:

- (1) Shopping centers or department stores.
- (2) Automobile agencies.
- (3) Bowling alleys.
- (4) Churches.

- (5) Gasoline service stations.
- (6) Motion picture theaters or live theaters.
- (7) Pool or billiard parlors.
- (8) Rental of motor vehicles, accessory and subordinate to the retail sales use.

**E. Minimum lot area.**

Thirty thousand (30,000) square feet.

**F. Minimum yards required.**

- (1) Front yard: 20 feet, all of which shall be landscaped in accordance with the landscaping requirements of Chapter 106 of the Comprehensive Development Code.
- (2) Side yard: Ten feet, except where the adjoining lot is in a residential district, in which case a minimum side yard of 25 feet shall be provided. Provided, however, that a screened enclosure for any dumpster shall have a setback of twenty (20) feet.
- (3) Rear yard: 25 feet.

**G. Minimum floor area.**

- (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.

**H. Minimum Lot width.**

136.7 feet.

**I. Minimum off-street parking.**

See Chapter 106 of the Comprehensive Development Code for the HC District. No parking shall be permitted in required front yard areas.

**J. Maximum lot coverage by all buildings.**

Maximum lot coverage by all buildings is 30 percent, except see Chapter 110 of the Comprehensive Development Code for regulations pertaining to transient lodging facilities, nursing and rest or group homes.

**K. 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 106 of the Comprehensive Development Code.

**L. Maximum height.**

The maximum height shall be limited and measured as follows: three (3) stories, up to a maximum height of 35 feet, measured vertically from the greater of the following: a) the FEMA first habitable floor height requirement; b) eighteen (18) inches above the elevation of the average crown of the adjacent roads; or c) the average natural grade (the natural contours of a land area generally unaltered by man's intervention); 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.

**M. Signage.**

As permitted under the provision of the Comprehensive Development Code for property zoned HC.

**2. Public Facilities.**

The public facilities that will service the development of the Property, including who shall provide such facilities, are as follows:

- A. Water - City of Naples
- B. Sewer - Collier County Utilities
- C. Solid Waste - City of Naples
- D. Water Management - City of Naples, FDOT and the South Florida Water Management District
- E. Police and Fire - City of Naples Police & Emergency Services Department
- F. Emergency Medical Service - Collier County



There are no public facilities to be designated and/or constructed by Developer to serve the Property. A schedule to assure public facilities are available are concurrent with the impacts of the development is not needed and therefore not provided. The existing City water and County sewer systems have sufficient capacity and levels of service available to serve the Property, and the Property may be served upon the payment of applicable systems development charges in accordance with the rules and regulations of the City Utility Division and Collier County Utilities. There are adequate public facilities, in addition to water and sewer, available and reserved to serve the Property concurrent with the impacts of the development authorized by this Agreement so that no development order or permit for development on the Property will be denied or delayed on the basis of lack of adequate public facilities. The adequacy of same and schedule of improvements are contained in the Naples Comprehensive Plan and the Collier County Comprehensive Plan.

**3. Public Dedication.**

Not applicable.

**4. Required Permitting.**

All local development permits approved or needed to be approved for the development of new structures on the Property which shall be issued by the City in accordance with this Agreement are:

- A. a Building Permit;
- B. a GDSP Review Approval
- C. Subdivision Approval, if applicable;
- D. Conditional Use Approval, if applicable;
- E. Evidence of FDOT access / driveway permit prior to approval of building permits if applicable.

**5. Compliance with Laws.**

Notwithstanding paragraph 4, the failure of this PD to address a particular permit, condition, term, or restriction shall not relieve the Developer of the necessity of complying with the law governing said permitting requirement, condition, term, or restriction.

**6. Timing of Development.**

Development of the Property may proceed in phases, and the development of the phases may proceed in any sequence; but neither the entire development nor any phase thereof must be commenced or completed within a specific period of time.

7. **Right-of-Way.**

The Property shall be entitled to a curb cut affording ingress and egress direction from the subject property to Ridge Street, with its location to be determined during the building permit process. There will be no curb cut on U.S. 41.