

Agenda Item 15.A
Meeting of 2/15/23**ORDINANCE 2023-15040**

AN ORDINANCE FOR THE PURPOSE OF AMENDING CHAPTER 58, ZONING, ARTICLE II, ZONING DISTRICTS, DIVISION 27 - PD PLANNED DEVELOPMENT DISTRICT OF THE CITY OF NAPLES, CODE OF ORDINANCES TO AMEND THE REGULATIONS FOR PLANNED DEVELOPMENTS; APPROVING TEXT AMENDMENT 22-T7; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER PROVISION; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, at the October 31, 2022 City Council workshop, Council directed Staff to bring forward a text amendment to the PD Planned Development District to amend the regulations governing planned developments; and

WHEREAS, Chapter 58, Article II, Division 27 of the Code of Ordinances provides specific provisions for lands within the PD Planned Development District; and

WHEREAS following an advertised public hearing on December 13, 2022, the Planning Advisory Board considered the public input, staff recommendations, and criteria in the Code of Ordinances, reviewed and found that the proposed amendment to the City's Code of Ordinance as set forth in this Ordinance is consistent with the City of Naples Comprehensive Plan and recommended by a vote of 7 to 0 that Text Amendment 22-T7 be approved; and

WHEREAS an advertisement of the public hearing for adoption of the proposed ordinance was published in the Naples Daily News on the 5th day of February, 2023 as required by Section 166.041, Florida Statutes and City of Naples Code of Ordinances; and

WHEREAS the Planning Advisory Board and the City Council find that this ordinance is consistent with the City of Naples Comprehensive Plan; and

WHEREAS approval of this ordinance is in the best interest of the health, safety, and welfare of the residents of the City of Naples;

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

Section 1. The above "Whereas" clauses are ratified, confirmed, and incorporated by reference as if set forth herein as the City Council's legislative findings.

Section 2. That Text Amendment 22-T7 is hereby approved, amending Chapter 58, Article II, Division 27 of the Code of Ordinances, City of Naples, to read as follows (with underlining indicating additions and ~~striking through~~ indicating deletions):

Chapter 58 – ZONING

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ARTICLE II. – ZONING DISTRICTS

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DIVISION 27. – PLANNED DEVELOPMENT DISTRICT**Sec. 58-801. District purpose.**

The PD district is intended to allow for the consideration of innovative integrated and well-designed developments in accordance with approved development plans that are sensitive to surrounding land uses and to the natural environment and is consistent with the Comprehensive Plan. The district is intended to offer flexibility of design and to encourage imaginative, exceptional, functional, high-quality land planning development which is compatible with adjacent and nearby lands and activities. If such development necessitates varying from the underlying zoning, the applicant must demonstrate that it is in the best interest of the public, provides community benefits, and/or fulfills a public need. A PD district may not be used as a tool to deviate from the provisions of the Land Development Code in a way that contradicts its intent.

Sec. 58-802. Uses permitted.

No specific list of uses permitted is established for the PD district. Land proposed for development under the PD district may contain a mixture of residential, commercial, recreational and other uses. Uses and residential densities in the PD district shall be limited by the future land use designation of the comprehensive plan. Where the comprehensive plan does not specify a limit on residential density, the PD district shall be limited to eight dwelling units per net acre for permanent residential units. Maximum density shall not apply to nursing homes, rest homes or group homes in a PD 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. ~~There is no maximum density for transient lodging facilities in a PD district.~~ Residential density within a PD district that covers more than one future land use category shall be calculated based on the land area within each category.

Sec. 58-803. Application for PD zoning.

Applicants seeking to rezone lands to the PD district shall make the submittals as required under the provisions of chapter 46 relating to the rezoning petition process and as required for site plan review. The applicant shall pay the petition fee for change of zone to PD.

Sec. 58-804. Procedure for approval of PD zoning.

The city manager shall review the application and required exhibits submitted pursuant to this division and shall determine that the documents are adequate as to form and informational content. The city manager shall then review the submittal with the appropriate city departments for their comments. Subsequent to the review, comments and discussion of the submittal, and of such modifications as the developer may make to it, the city manager shall prepare a recommendation and present it and the applicant's petition to the planning advisory board at a public hearing before the board, which has been advertised once in a newspaper of general circulation at least 15 days prior to the public hearing and in accordance with Section 46-45. For further details regarding the procedure for rezoning property, see chapter 46.

Sec. 58-805. Standards for approval of PD zoning.

In their analysis of the rezone petition and the proposed development plan submitted pursuant to this division, and prior to official action recommending in favor of or approving the petition and plan, the planning advisory board and city council shall ensure that the following standards and conditions are met and shall deny the request if any of the following standards are not met:

- (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. The district shall be sensitive to surrounding land uses and the natural environment.
- (2) The development shall comply with the comprehensive plan, as well as all 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.
- (3) The applicant has demonstrated that the development standards within the proposed Planned Development, where different from those in the underlying zoning district, are necessary to achieve the goals of the project and comply with these standards and will result in a development that is more beneficial to the community than could be achieved through the underlying zoning.
- (~~3~~ 4) 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.
- (4 ~~5~~) Streets, utilities, drainage facilities, recreation areas, building heights, sizes and yards, and vehicular parking and loading facilities shall be appropriate for the particular use involved, and shall equal or exceed the level of design and construction quality and quantity required of similar land development elsewhere in the city.
- (~~5~~ 6) Visual character and community amenities shall be equal or better in

quality than that required by standard zoning districts for similar development.

- (6 7) A minimum of 10 percent of Open space and green space shall be provided that is contiguous, meaningful, and the maximum achievable adequate for the type of development and the population densities proposed.
- (7 8) Areas proposed for common ownership shall be subject to a reliable and continuing maintenance guarantee.
- (8 9) 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 standards 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.
- (10) All instances where the proposed PD varies from the underlying zoning regulations shall be clearly delineated in the application.

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Sec. 58-810. Time limitations.

- (a) Upon the effective date of an ordinance authorizing a PD district, in all cases construction shall commence within 24 months if the PD district encompasses less than 5 acres or within 36 months if the PD district encompasses 5 acres or more, and all construction shall be completed within five years or a specified period of time.
- (b) Upon application filed prior to or on the date of commencement set forth in subsection (a) of this section, the city manager may grant a 1-year extension of the commencement date upon a determination that a good faith effort to commence construction prior to the commencement date has been made. Thereafter, the city council by super majority approval at a public hearing of a resolution may grant a 1-year extension of the commencement date upon a determination that a good faith effort to commence construction prior to the commencement date has been made. The date of commencement set forth in subsection (a) of this section shall not be extended through the approval of an individual PD district, except by a super majority vote of City Council.
- (c) Upon failure to commence construction within the specified time or failure to comply with section 104.5 of the Florida Building Code:
 - (1) The ordinance creating the PD district shall stand repealed;

- (2) The zoning for the PD district shall revert to the zoning that existed for the PD district prior to approval thereof; and
- (3) No further development shall occur and no building permit or development order shall be issued thereafter under the terms of the PD district.
- (d) After the commencement date described in subsection (a) of this section, no building permit or development order for a new or expanded structure shall be issued under the terms of the PD district without city council approval. Authorization of the PD district shall not create a right to such issuance.
- (e) "Construction," for purposes of this section, shall mean obtaining a building permit for a structure or structures authorized in the PD district and initiating substantial site and structural improvements, not including land clearing, land filling and soil compaction.

Section 3. That if any word, phrase, clause, subsection, or section of this ordinance is for any reason held unconstitutional, invalid, or ineffective, the same will not affect the validity of any remaining portions of this ordinance. In such event, the pre-existing word, phrase, clause, subsection, or section, will be revived.

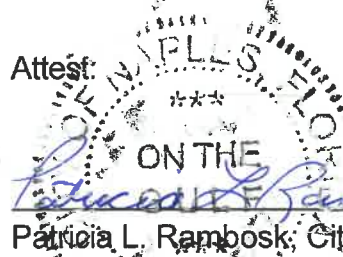
Section 4. That all sections or parts of sections of the Code of Ordinances, City of Naples, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

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

APPROVED AT FIRST READING AND PUBLIC HEARING THE 18TH DAY OF JANUARY, 2023.

APPROVED 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 FEBRUARY, 2023.

Attest:



Patricia L. Rambosk, City Clerk

Teresa Lee Heitmann, Mayor

Approved as to form and legality:

Vose Law Firm, City Attorney

Date filed with City Clerk: 2-28-23