Agenda Item
Meeting of 3/23/2022

ORDINANCE 2022-

AN ORDINANCE APPROVING TEXT AMENDMENT 21-T5 AMENDING CHAPTER 58, ZONING, ARTICLE II, ZONING DISTRICTS, DIVISION 30 D-DOWNTOWN DISTRICT FOR THE PURPOSE OF ELIMINATING THE DENSITY BONUS AND OPEN SPACE FEE FOR BONUS DENSITY IN THE D DOWNTOWN ZONING DISTRICT, SECTION 58-907 AMENDING OR ELIMINATING REQUIREMENTS FOR THE USE OF OPEN SPACE TO INCREASE DENSITY IN THE D-DOWNTOWN ZONING DISTRICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER PROVISION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Naples Planning Advisory Board proposes a text amendment to the City's regulations;

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

Section 1. That Text Amendment 21-T5 is hereby approved, amending Section 58-907 of the Code of Ordinances, City of Naples, to read as follows (with underlining indicating additions and ~~strikethrough~~ indicating deletions):

Chapter 58 – ZONING

. . .

ARTICLE II. – ZONING DISTRICTS

. . .

DIVISION 30. – D DOWNTOWN DISTRICT

. . .

Sec. 58-907. Maximum residential density.

(a) *Generally.* The maximum residential density in the downtown district is 12 dwelling units per acre~~, except as provided below~~.

~~(b) *Density increases.* Residential density may exceed 12 units per acre, but not greater than 30 units per acre, on a specific site by conditional use permit, subject to other conditions stated herein; however, the overall density in the district may not exceed 12 units per acre. A total pool of 807 units is available for property in the area on the north side of Central Avenue, and a total pool of 609 units is available for property in the area on the south side of Central Avenue for a total of 1,416 residential units in the district. In order to exceed 12 units per acre, a project must either provide public~~

~~open space through dedication of an easement to the city, or payment into the open space fund, or a combination of both.~~

~~(1) *Dedication of public open space.* If the project provides public open space, at least 500 square feet of contiguous open space must be provided for every residential unit above the allowable number. A minimum of 1,000 square feet of contiguous open space must be provided in order to be eligible for this provision. The public open space shall remain as private property but an easement or similar instrument shall be granted to the city for use as public open space prior to issuance of a building permit. The decision as to whether to accept the dedication of public open space or to require payment in lieu of public open space shall be made by the city council. The design of the public open space must be approved by the design review board. Refer to section 58-919 for a description of the board's responsibilities.~~

~~(2) *Payment for additional density.* If the developer of the project proposes to make a payment for the increased density, an open space fee per residential unit above the allowable number must be paid to the city at the time of issuance of a building permit.~~

~~(3) *Computation of open space fee.* The city council shall by resolution adopt fees to be charged for open space and shall be as set forth in appendix A to this Code.~~

~~(4) *Refunds.* Where a project has not commenced construction after issuance of a building permit, requests for refunds of open space fees must be made in writing and will be considered on an individual basis and approved by the city council. After determination of the city council at a public meeting that the property owner is entitled to a refund, the city shall return the amount so determined. Any interest that may have been earned on such amounts shall not be refundable.~~

(b) ~~(5) *Downtown public open space trust fund established.*~~ The Naples Downtown Public Open Space Trust Fund account is ~~hereby~~ established into which ~~shall be deposited~~ all payments made by projects pursuant to ~~this section~~ previously approved increases in residential density were deposited. Money deposited into said account shall be used by the city for the exclusive purpose of paying the cost of acquiring land and for the construction or reconstruction of public open space in the district. Said cost includes the cost of all labor and materials, the cost to acquire all lands, property, rights, and easements required, the cost of financing charges, the cost of interest prior to and during construction, and, for one year after completion of construction, discount on the sale of municipal bonds, the cost of plans and specifications, the cost of engineering and legal services, and such other costs and expenses necessary or incident to determining the feasibility or practicability of such construction or reconstruction, administrative expenses, and such other expense as may be necessary or incident to the construction or reconstruction of public open space, or its financing.

. . .

Section 2. 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 3. 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 4. That this ordinance will take effect immediately upon adoption at second reading.

APPROVED AT FIRST READING AND PUBLIC HEARING THIS 2ND DAY OF MARCH 2022.

SCHEDULE FOR SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THE 23RD DAY OF MARCH 2022.

Attest:

Patricia L. Rambosk, City Clerk

Teresa Lee Heitmann, Mayor

Approved as to form and legality:

Ralf Brookes, Esq.

City Attorney (Vose Law Firm)

Date filed with City Clerk:_____