Agenda Item_____
Meeting of 03/23/2022

RESOLUTION 2022-

A RESOLUTION RELATING TO A VARIANCE; DETERMINING PETITION 21-V6 TO ALLOW A VARIANCE FROM SECTION 58-330 FOR TOTAL PROJECT LOT COVERAGE OF 30 PERCENT WHERE A MAXIMUM OF 25 PERCENT IS PERMITTED FOR THE PALM COURT CONDOMINIUM ON PROPERTY OWNED BY FRANK FERRI (UNIT 1), GARY L & ELIZABETH M HYATT (UNIT 6), JODY L CORBETT (UNIT 7), WADE C APPLEMAN & ROBIN KRAWCZYK (UNIT 12), WILLIAM C PATTERSON & MEGAN N WISE-PATTERSON (UNIT 13), AND THOMAS R & JACQUALYN HESSION (UNIT 17), LOCATED IN THE R3T-12 MULTIFAMILY ZONING DISTRICT AT 660 3RD STREET SOUTH (UNIT 1), 266 6TH AVENUE SOUTH (UNIT 6) 260 6TH AVENUE SOUTH (UNIT 7), 230 6TH AVENUE SOUTH (UNIT 12), 224 6TH AVENUE SOUTH (UNIT 13), & 635 2ND STREET SOUTH (UNIT 17), MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Wade C. Appleman, authorized representative of the Property Owners and the Palm Court Homeowner's Association, petitioner, has authorized Coleman Yovanovich & Koester, PA, agent, to file this petition; and

WHEREAS, Coleman Yovanovich & Koester, agent for the petitioner, has requested approval of a variance from Section 58-330 for a total project lot coverage of 30% where a maximum of 25% is permitted to accommodate renovations to Unit 1, Unit 6, Unit 7, Unit 12, Unit 13 and Unit 17 of the Palm Court Condominium on property located in the R3T-12 Multifamily Zoning District at 660 3rd Street South (Unit 1), 266 6th Avenue South (Unit 6), 260 6th Avenue South (Unit 7), 230 6th Avenue South (Unit 12), 224 6th Avenue South (Unit 13), and 635 2nd Street South (Unit 17); and

WHEREAS, the Planning Advisory Board, following an advertised public hearing on February 9, 2022 considered the public input, the recommendation of staff, and recommended by a vote of 5 to 2 that Variance Petition 21-V6 be **APPROVED;** and

WHEREAS, after considering the recommendation of the Planning Advisory Board and after providing the petitioner, staff, and the public an opportunity to present testimony and evidence, City Council finds that the criteria set forth in Section 46-37(c) of the Code of Ordinances for variances, namely:

(c) ***Variance criteria.***

a. *Threshold criteria.* All of these threshold criteria must be met or no variance will be granted:

1. Literal interpretation of the code would cause an unnecessary or unreasonable hardship or would deprive the applicant of the reasonable use of the property.
2. The variance will be otherwise consistent and in harmony with the general intent and purpose of the comprehensive plan, the land development code, and adjacent properties' zoning.

3. The variance does not permit the establishment or enlargement of any use or structure devoted to a use that is not permitted by right in the district in which the variance is requested.
4. The variance will not harm the health, safety, and welfare of the community.
5. The applicant has taken all reasonable steps to mitigate, relocate, or redesign the structure so that a variance would be unnecessary.
6. The variance will be compatible in character and scale and will not be injurious to the neighborhood and surrounding properties.
7. The plight of the applicant is due to unique circumstances not created by the applicant. For purposes of this provision the applicant is not considered to stand in the shoes of their predecessors in interest.

b. *Additional criteria.* If the threshold criteria have been met, the variance may be approved if the case for approving a variance clearly outweighs the case for denial as to the following factors:

1. The city council will determine whether or not the applicant is culpable for the actions of its agent or predecessors in title.
2. The proposed variance is the minimum necessary to make possible reasonable use of the land, building, or structure, and is the most practical or logical solution to the need for relaxation of the literal requirements of this land development code.
3. Special conditions or circumstances exist that are peculiar to the land or structure involved, which are not applicable to other lands or structures in the same neighborhood or district.
4. The variance is necessary for the construction, reconstruction, or preservation of contributing historical buildings and structures and maintains the historical or architectural style, form, or character of the original building in keeping with the period when it was built.
5. The variance will promote or preserve natural resources and the natural environment.

The City Council will not consider the petitioner's financial gain or loss in making its determinations.

HAVE / HAVE NOT been met and that the petition should be **APPROVED / DENIED**.

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

Section 1. That Variance Petition 21-V6 from Section 58-330 of the Land Development Code is hereby **APPROVED / DENIED** for a total project lot coverage of 30% where a maximum of 25% is permitted to accommodate renovations to Unit 1, Unit 6, Unit 7, Unit 12, Unit 13 and Unit 17 of the Palm Court Condominium for property located in the R3T-12 Multifamily Zoning District at 660 3rd Street South (Unit 1), 266 6th Avenue South (Unit 6), 260 6th Avenue South (Unit 7), 230

6th Avenue South (Unit 12), 224 6th Avenue South (Unit 13), and 635 2nd Street South (Unit 17), more fully described in Exhibit A.

Section 2. **(If Approved)** That approval of this Variance Petition is pursuant to the application and attachments included with this item, and subject to the following condition(s):

1. All internal impervious sidewalks shall be replaced with pervious pathways

Section 2. **(If Denied)** That denial of this Variance Petition, pursuant to Section 46-37(c) of the Land Development Code, is based upon the failure to meet threshold criteria 1, 3, 5, and 7, and additional criteria 1, 2, 3, 4 and 5.

Section 3. **Disclaimer and 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 4. That this resolution shall take effect immediately upon adoption.

PASSED IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, THIS 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:_____

EXHIBIT A

PALM COURT A CONDOMINIUM, PHASES 1 THROUGH 6 ACCORDING TO THE PLAT RECORDED IN CONDOMINIUM PLAT BOOK 28 PAGE 29 OF THE PUBLIC RECORDS OF COLLIER COUNTY.