



STAFF REPORT

TO: COLLIER COUNTY PLANNING COMMISSION
FROM: ZONING DIVISION; GROWTH MANAGEMENT DEPARTMENT
HEARING DATE: FEBRUARY 15, 2018
SUBJECT: LDCA-PL-20160003642, MINI-TRIANGLE

APPLICANT/AGENT:

Applicant:

Real Estate Partners International, LLC
1415 Panther Lane
Naples, FL 34109

Agent:

Robert J. Mulhere, FAICP
Hole Montes, Inc.
950 Encore Way
Naples, FL 34110

REQUESTED ACTION:

To have the Collier County Planning Commission (CCPC) consider an application for a Land Development Code (LDC) amendment to Section 4.06.02 – Standards for Development in Airport Zones.

This amendment applies to lands currently owned by the Collier County Community Redevelopment Agency

GEOGRAPHIC LOCATION:

The proposed LDC Amendment is associated with a companion Growth Management Plan (GMP) amendment (PL-20160003084), which creates a new “Mini-Triangle Mixed Use Subdistrict” in the Future Land Use Element of the GMP, and a companion Mixed-Use Planned Unit Development (MPUD) rezoning request (PL-20160003054). The proposed Mini-Triangle Mixed Use Subdistrict is generally located at the intersection of U.S. 41, Davis Boulevard, and Commercial Drive in the Bayshore Gateway Triangle Redevelopment Area.

PURPOSE/DESCRIPTION OF PROJECT:

As stated in the application, this LDC Amendment request is intended to accomplish the following:

To expressly identify an exemption (applicable to the Mini Triangle project) to the LDC Airport Zone height limitations, generally utilizing the same format as was previously used to identify an exemption for the Marco Shores Golf Course Community, and to renumber/reformat the related paragraphs.

The proposed LDC Amendment (see Attachment 1 – Application and LDC Amendment Request) establishes an exemption from the Standards for Development in Airport Zones for the proposed Mini-Triangle Mixed Use Subdistrict in order to support the Collier County Community Redevelopment Agency (CRA) Plan for a Catalyst project in the Bayshore/Gateway Redevelopment Area. The companion MPUD petition establishes maximum building heights which exceed the standards in LDC section 4.02.06 and the applicant seeks to add this exemption in the LDC to ensure there is no confusion regarding allowable building height for the project in the future.

GROWTH MANAGEMENT PLAN (GMP) CONSISTENCY:

When reviewing LDC Amendments, LDC section 10.02.09 establishes that, “the LDC may only be amended in such a way as to preserve the consistency of the LDC with the Growth Management Plan.” Comprehensive Planning staff has found the proposed LDC Amendment to be consistent with the Future Land Use Element of the Collier County GMP, contingent upon the companion GMP Amendment being adopted and in effect. Accordingly, the LDC Amendment ordinance should have an effective date linked to the effective date of the GMP Amendment.

STAFF ANALYSIS:

When reviewing LDC Amendments, LDC Section 10.02.09 also establishes that, “amendments to the LDC may be made no more than twice during the calendar year.” No other LDC Amendments have been made this calendar year.

While there are no other specific criteria applicable to LDC Amendments, Zoning staff considers a variety of legal issues, planning principles, internal consistency of the LDC, and other guidance when evaluating LDC Amendment requests. Staff considered issues related to building height and land use restrictions as described in the following sections, when reviewing the proposed LDC Amendment.

Building height

LDC Sections 4.02.06 A-K establish the maximum height for structures or obstructions within several “imaginary surfaces.” The proposed LDC Amendment eliminates the height limitations in these sections for the Mini-Triangle project. The proposed LDC Amendment seeks to clarify that once adopted, the MPUD will be the controlling regulation regarding maximum building height for the project.

Additionally, all development within the County’s Airport Zones is required to notify the Federal Aviation Administration (FAA). In response, the FAA has issued a “Determination of No Hazard” for three proposed structures in the Mini-Triangle project. The “Determination of No Hazard” letters identify that the structures “would not have a substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on any air navigation facility and would

not be a hazard to air navigation.” Finally, the Naples Airport Authority (NAA) Board has also provided input on the project in a letter dated September 26, 2016, which states that the NAA Board will not object to the proposed project subject to several conditions (see Attachment 2).

Finally, the proposed amendment to LDC Section 4.02.06 limits the scope of the exemption to that which is allowed by the FAA’s “Determination of No Hazard” or any subsequent letters and the height requirements of the proposed MPUD, both of which establish a maximum building height of 168 feet above mean sea level (AMSL). Given that the maximum height for the project is established in the MPUD, the LDC Amendment is not necessary to achieve the applicant’s stated goal of allowing buildings taller than 150 feet. The inclusion of this exemption from LDC Section 4.02.06 does not create any conflict with any other LDC provision, and may provide additional clarity regarding the applicable standards throughout the life of the project. Therefore, staff has no objection to the proposed exemption from the LDC’s maximum height standards in LDC Sections 4.02.06 A-K.

Land use restrictions

LDC Section 4.02.06 M includes land use restrictions applicable to development within airport zones. Given that the requested exemption is limited to the height requirements within the section, the land use restrictions in LDC Section 4.02.06 M will still apply to the Mini-Triangle Project.

DEVELOPMENT SERVICES ADVISORY COMMITTEE RECOMMENDATION:

Collier County Code of Laws Section 2-1037 charges the Development Services Advisory Committee (DSAC) with, “[providing] input to staff regarding the creation of new rules, processes and procedures associated with the development industry,” and with, “[reviewing] proposed ordinances and codes that may affect the community development and environmental services division prior to their submittal to the Board of County Commissioners for approval.” Accordingly, DSAC reviews and provides recommendations on all LDC Amendments prior to Board approval.

The Development Services Advisory Committee-Land Development Review (DSAC-LDR) Subcommittee reviewed the petition on November 13, 2017, and unanimously recommended approval of the amendment (with one abstention).

The full DSAC reviewed the petition on December 6, 2017, and unanimously recommended approval of the amendment (with one abstention).

COUNTY ATTORNEY OFFICE REVIEW:

This Staff Report was reviewed by the County Attorney’s Office on February 2, 2018.

STAFF RECOMMENDATION:

Staff recommends that the CCPC forward Petition LDCA-PL20160003642 to the Board with a recommendation of approval.

Attachments:

1. Application and LDC Amendment Request
2. NAA Board letter of no objection


PREPARED BY:



JEREMY R. FRANTZ, LDC MANAGER
ZONING DIVISION

2-6-18
DATE

REVIEWED BY:



MICHAEL BOSI, AICP, DIRECTOR
ZONING DIVISION

2-6-18
DATE

APPROVED BY:



JAMES FRENCH, DEPUTY DEPARTMENT HEAD
GROWTH MANAGEMENT DEPARTMENT

2-6-18
DATE



950 Encore Way • Naples, Florida 34110 • Phone 239.254.2000 • Fax: 239.254.2099

December 21, 2016

VIA HAND-DELIVERY

Paula J. Brethauer, Intake Project Coordinator
Collier County Government
Growth Management Division
2800 North Horseshoe Drive
Naples, FL 34104

**Re: Mini Triangle
LDC Amendment Application
HM File No.: 2016.052**

Dear Ms. Brethauer:

Attached please find all required submittal information for the above-referenced LDC Amendment Application.

The Bayshore/Gateway Redevelopment Area and the Community Redevelopment Agency (CRA) were established in March of 2002. The Bayshore/Gateway area comprises approximately 1,800 acres. The CRA was established in order to breathe new economic life, in the form of private investment, in an area that was experiencing declining property values, and was suffering from inadequate infrastructure (such as, but not limited to stormwater facilities, pedestrian and bicycle paths and connectivity, landscaping and street lighting, and so forth), The CRA funding comes primarily from Tax Increment Financing (TIF). In establishing this CRA, the Board of County Commissioners intention was and is to utilize TIF funds to reinvest in the CRA, in the form of infrastructure improvements and in supporting private investment in the area. The objective is to foster redevelopment and create a sense of place, primarily through private investment. When this revitalization of the CRA as a desirable place to visit, live and work occurs, the taxpayer's investment is recouped through rising property values and increased ad Valorem tax dollar revenues. Often it takes years to accomplish these objectives. A strong economy can accelerate redevelopment and on the opposite end of the spectrum, an economic turndown or other factors (such as stringent inflexible development standards), singularly or in combination, can stymie a redevelopment initiative or bring it to a screeching halt.

In December of 2015, Collier County issued a Request for Proposal with the intent of obtaining proposals from interested and qualified buyers for the County owned 5.35 acre mini triangle property. At a regularly schedule advertised public hearing, the CRA Board considered the qualified proposals and selected RE Partners International, LLC. Subsequently, a contract was formalized and executed. The contract was amended several times. The contract includes specific timelines and performances standards for both parties, and identifies allowable intensity and density. Both the CRA Advisory Board and the CRA Board (County Commission sitting as the CRA Board) approved the conceptual development plan. The contract provides for 210 multi-family residential units, 152 hotel units, 74,000 square feet or retail and personal service uses, and 60,000 square feet of office use.

Paula J. Brethauer, Intake Project Coordinator
Re: Mini Triangle
LDC Amendment Application
HM File No.: 2016.052
December 21, 2016
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The next step is the entitlement process, which includes three companion petitions, a small scale GMPA, an MPUD rezone petition, and the attached LDC amendment application. The LDC amendment is necessary to clarify how height will be measured for the Mini Triangle property.

We enclose the following:

- One (1) copy of the Cover Letter (this is the cover letter);
- One (1) fcc check in the amount of \$3,000;
- One (1) copy of Completed Land Development Code Amendment Application;
- One (1) copy of LDC Amendment Request; and
- One (1) CD with all documents in pdf format.

If you have any questions, please don't hesitate to contact me.

Very truly yours,

HOLE MONTES, INC.



Robert J. Mulhere, FAICP
Vice President, Planning Services
RJM/sek

Enclosures as noted.

cc: Jerry Starkey w/enclosures
Fred Pezeshkan w/enclosures
Richard Grant, Esq. w/enclosures



COLLIER COUNTY GOVERNMENT
GROWTH MANAGEMENT DEPARTMENT
www.colliergov.net

2800 NORTH HORSESHOE DRIVE
NAPLES, FLORIDA 34104
(239) 252-2400 FAX: (239) 252-6358

**APPLICATION FOR AMENDMENT TO THE
LAND DEVELOPMENT CODE
LDC Section 10.02.09
Ch. 2 B. of the Administrative Code**

PROJECT NUMBER
PROJECT NAME
DATE PROCESSED

For Staff Use

APPLICANT CONTACT INFORMATION

Name of Applicant: Robert J. Mulhere, FAICP, Vice President
Firm: Hole Montes, Inc.
Address: 950 Encore Way City: Naples State: FL ZIP: 34110
Telephone: 239-254-2099 Cell: N/A Fax: 239-254-2099
E-Mail Address: bobmulhere@hmeng.com

Please describe LDC amendment request on attached template

SUBMITTAL REQUIREMENTS

See Chapter 2 B. of the Administrative Code for submittal requirements.

- Completed Application
- Completed LDC Amendment Request (attached)

Fee Requirements:

- Amendment to the LDC: \$3,000.00

All checks payable to: Board of County Commissioners

The completed application, all required submittal materials and the fee shall be submitted to:
Growth Management Department/Development Review
ATTN: Business Center
2800 North Horseshoe Drive
Naples, FL 34104

Text underlined is new text to be added.
~~Text strikethrough is current text to be deleted.~~
Bold text indicates a defined term

LDC AMENDMENT REQUEST

ORIGIN: Planning and Regulation Department, BCC Directed or Applicant

AUTHOR: Individual who will appear before the Board and advisory committees to present the amendment request and is prepared to address questions.

DEPARTMENT:

AMENDMENT CYCLE: 20__ Cycle __

LDC PAGE: LDC 10:123-125

LDC SECTION(S): 1.08.02 Definitions
2.03.06 Planned Unit Development Districts
10.02.13 Planned Unit Development (PUD) Procedures

IMPORTANT: Please be sure to identify each section of the LDC that you plan to change in any way (e.g. additions, deletions) to insure proper advertising of the proposed changes.

CHANGE: Must be reviewed and revised as necessary to reflect changes to the amendment as requested by other staff and advisory board members.

REASON: [see above]

FISCAL & OPERATIONAL IMPACTS:

RELATED CODES OR REGULATIONS:

GROWTH MANAGEMENT PLAN IMPACT: Discuss with Comprehensive Planning staff.

OTHER NOTES/VERSION DATE: Please record date the amendment is created AND all subsequent dates on which the amendment is revised

Amend the LDC as follows: This is where the actual LDC text changes begin. From this point on, the font changes to 11-pt. Arial and the Code formatting outline begins.

1 LDC AMENDMENT REQUEST

2
3 LDC Section(s): 4.02.06.L. Standards for Development in Airport Zones

4
5 Author: Robert J. Mulhere, FAICP, VP Planning Services

6
7 Change: To expressly indentify an exemption (applicable to the Mini Triangle project) to the
8 LDC Airport Zone height limitations, generally utilizing the same format as was previously used
9 to identify an exemption for the Marco Shores Golf Course Community, and to
10 renumber/reformat the related paragraphs. This will ensure that anyone searching the LDC will
11 be aware of this exemption.

12
13 Reason: Assuming the GMPA and MPUD are approved by the BCC, the proposed
14 amendments are necessary to:

15
16 Reflect the height exemption (from the applicable Airport Zone building height limitations),
17 so that anyone utilizing the LDC to determine limitations for properties with the designated
18 "Airport Zones" would see that the Mini Triangle has a limited exemption (from the height
19 limitations) and would then understand the need to review the referenced ordinance number
20 for the Mini Triangle MPUD to determine the exact nature of that exemption,
21

22 These proposed LDC Amendment would receive final consideration and approval only after the
23 proposed SSGMPA and MPUD are approved.

24
25 Fiscal & Operational Impacts: There are no specific fiscal impacts or costs associated with the
26 proposed LDC Amendments. However, if the property is developed as permitted under the Mini
27 Triangle Subdistrict there will be a significant return on the taxpayers investment in the CRA via
28 increased tax receipts to the CRA. This is exactly the outcome desired as the end result of
29 creating a CRA and investing an increment of property tax revenues to promote redevelopment
30 and improvement in the CRA. Additionally, as was intended, development within the Mini
31 Triangle will act as a catalyst for further investment and redevelopment in the lager Bayshore
32 Gateway Triangle Redevelopment Area.

33
34 Related Codes or Regulations: This LDC is submitted with companion petitions SSGMPA
35 (PL-20160003084/CPSS) and MPUD (PI-20160003054)

36
37 Growth Management Plan Impact: The proposed LDC Amendment is necessitated in the
38 event the Mini Triangle Subdistrict and companion MPUD are approved). The proposed change
39 is consistent with that subdistrict and with the overall GMP.
40

41 Amend the LDC as follows:

42
43 4.02.06 - Standards for Development in Airport Zones

44 L. Exemptions.

- 45
46 1. Development of the Marco Shores Golf Course Community that comports with the
47 location and height requirements of Ordinance No. 81-6, as amended by Ordinance No.
48 85-56 and Ordinance No. 94-41, is exempted from the provisions of section 4.02.06
49 only to the following extent:

50 a. 4. The agreement between Johnson Bay **Development** Corporation Collier
51 County **Airport** Authority and the BCC, dated August 8, 1995.

52 b. 2. Prior issuance of a Federal Aviation Administration "Determination Of No
53 Hazard To Air Navigation."

54 2. Development of the Mini-Triangle Mixed Use Subdistrict of the Urban Designation,
55 Urban Mixed Use District of the Growth Management Plan that comports with height
56 requirements of Ordinance 2017- _____, is exempted from the height provisions of
57 section 4.02.06 only to the following extent:

58 a. Prior issuance of a Federal Aviation Administration "Determination Of No Hazard To
59 Air Navigation", including such letters dated January 1, 2017, or subsequent letters
60 addressing structures within the Mini-Triangle Mixed Use Subdistrict of the Urban
61 Designation, Urban Mixed Use District of the Growth Management Plan.

DRAFT



CITY OF NAPLES AIRPORT AUTHORITY
160 AVIATION DRIVE NORTH • NAPLES, FLORIDA 34104-3568

ADMINISTRATION (239) 643-0733/ FAX 643-4084
OPERATIONS 643-0404/FAX 643-1791, E-MAIL administration@flynaples.com

September 26, 2016

Mr. Jerry Starkey
Chief Executive Officer
Real Estate Partners International, LLC
1415 Panther lane
Naples, FL 34109

RE: Proposed Gateway Triangle Development

Dear Mr. Starkey:

Please accept this correspondence as the City of Naples Airport Authority's (NAA) modified position on the Real Estate Partners International, LLC (REPI) proposed Gateway Triangle Development. The NAA's Board met on September 15, 2016 and discussed the issue in a public setting, considered staff and public comments, and by unanimous vote adopted the following revised policy regarding the proposed Gateway Triangle Development:

The NAA will not object to a height up to (but not exceeding) 160 feet above the established elevation of the Naples Municipal Airport (NMA) for any building or other structure (including all rooftop appurtenances such as communications towers, antennas, elevator shafts, access doors and equipment) contemplated in the Gateway Triangle Development, subject to all of the following conditions:

- REPI shall grant the NAA a recorded aviation easement, height restriction and/or covenants in a form acceptable to the NAA; provided, however, if REPI agrees to reduce the maximum height for any building or other structure (including all rooftop appurtenances such as communications towers, antennas, elevator shafts, access doors and equipment) to 150 feet, or less, above the established elevation of the NMA, then the NAA shall waive its requirement for a recorded aviation easement, height restriction and/or covenants.
- REPI shall provide in the declaration of condominium a disclosure approved by the NAA notifying all prospective purchasers of the proximity of the NMA and the common noises and disturbances incident thereto.

Mr. Jerry Starkey
Real Estate Partners International, LLC
September 26, 2016
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- REPI shall construct all buildings and other structures in the Gateway Triangle Development using noise attenuation techniques and materials.
- The existing communications tower shall be relocated in a manner that does not adversely impact the safe and efficient use of NMA.
- FAA issues a determination of no hazard for any building or other structure (including all rooftop appurtenances such as communications towers, antennas, elevator shafts, access doors and equipment) to a height up to (but not exceeding) 160 feet above the established elevation of NMA.
- Upon receipt of the FAA's determination or any other relevant due diligence, the Board will review the finding and determine whether any revisions to the policy are appropriate.

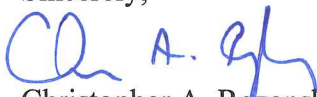
Furthermore, the NAA will not object to any temporary crane used during the construction of the proposed Gateway Triangle Development, subject to all of the following conditions:

- FAA issues a determination of no hazard for such temporary crane.
- REPI shall adhere to all conditions stipulated by the FAA and coordinate as required with the NAA throughout construction.

If REPI does not accept the NAA's policy, then the Board directs the Executive Director to make recommendations on available remedies.

We look forward to working with you in hopes of developing an amiable compromise that protects the interests of the NAA, the aviation community and general public. Please continue to provide us with any information, in addition to the FAA's final determination, that is relevant to the NAA's policy regarding the proposed development.

Sincerely,


Christopher A. Rozansky
Executive Director

cc: Nick Casalanguida, Deputy County Manager
Bill Owens, Bond, Schoeneck & King PLLC, NAA Counsel