



AGENDA MEMORANDUM

Planning Department

City Council Meeting Date: December 3, 2024

To: City Council
From: Paula McMichael, AICP, Planning Director
Date: November 21, 2024

SUBJECT: Open Bodies of Water – Discussion of Draft Ordinance

BACKGROUND:

At the April 5, 2022, meeting, City Council directed the Planning Commission and staff to review and provide recommendations for the definition of open body of water. The intent of the review is to improve the clarity of definitions and processes related to determination of an open body of water as required by the Sanibel Code.

The proposed amendments along with background information have been presented at seven (7) public meetings between 2022 and 2024:

- June 14, 2022 – Planning Commission Meeting
- August 23, 2022 – Land Development Code Subcommittee Meeting
Hurricane Ian delays
- March 12, 2024 – Planning Commission Meeting
- June 11, 2024 – LDC Subcommittee Meeting
- August 13, 2024 – LDC Subcommittee Meeting
- September 10, 2024 – Planning Commission Public Hearing
- October 1, 2024 – City Council Meeting Discussion

Revisions to the draft amendments have been made based on council's discussion on October 1, 2024, to further clarify the proposed language. Specifically, the following changes have been made:

- Sec. 86-45. – Determination and delineation of open body of water
 - (a) & (b) – Revised language to consistently refer to “bodies of water” (rather than “waterways” and “water bodies”)
 - (b)(1)d.1. – Clarified the language related to how the elevation of 1.3 feet NAVD is used to measure an open body of water boundary
 - (b)(2). – Clarified that the applicant may use the top of bank to determine open body of water boundary at their option.
 - (c) – Added an open body of water that exists due to the demolition of a structure as a “de minimis” open body of water

- Sec.126-250. – Administrative waiver from open body of water setback
 - (b) – States that there is no fee associated with the approval of an administrative waiver.

- Sec. 126-852. – Requirements
 - (d)(3) – Added “dune walkovers” as an accessory structure not subject to open body of water setback.

The proposed amendments to the Sanibel Code will achieve the following benefits:

- Reduce ambiguity, improve clarity, and remove subjectivity in the determination and delineation of an open body of water, particularly in interior areas of the island.
- Provide staff, rather than the planning commission, with the option to request an environmental assessment report for properties that are exceptionally low or wet, to address potential open bodies of water sooner in the review process, to the benefit of the property owner.
- Create a “de minimis” impact standard for small and isolated open bodies of water, or those unintentionally caused by demolition of a structure, to permit impacts and not require setbacks to these open bodies of water.
- Create an administrative waiver process, without a permit fee, to allow reduced setbacks to open bodies of water where criteria have been met.
- Enumerate accessory buildings and structures that are not subject to an open body of water setback, such as docks, boardwalks in conservation lands, or driveways crossing an open body of water to access a single-family home.

RECOMMENDED ACTION:

Staff recommends scheduling the draft Ordinance for first reading.