

**CITY OF SANIBEL
PLANNING COMMISSION RESOLUTION 23-24**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANIBEL; RELATING TO A DEVELOPMENT PERMIT (APPLICATION NO. SPLT-2022-000074 AND DP-2021-001803) FILED PURSUANT TO SECTIONS 82-421(1), 82-422, AND 114-106 OF THE LAND DEVELOPMENT CODE FOR PRELIMINARY PLAT, TO ALLOW A UNIFIED RESIDENTIAL HOUSING (CLUSTER HOUSING) DEVELOPMENT INCLUDING SIX PARCELS FOR SINGLE-FAMILY RESIDENTIAL USE AND ASSOCIATED IMPROVEMENTS, KNOWN AS "COASTAL CREEK" SUBDIVISION, ON PROPERTY OWNED BY BUCKINGHAM 225 DEVELOPMENT, INC. (DANIEL W. DODRILL), AND LOCATED AT 5301-5326 SANIBEL CAPTIVA ROAD, PARCEL NO. 13-46-21-T2-00002.2000 AND 13-46-21-T2-00002-4000, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Sections 82-421(1) and 82-422 of the Land Development Code detail the application and notice requirements for development permit consideration by the Planning Commission; and Section 114-106 of the Land Development Code provides for requirements and procedures for preliminary plats; and

WHEREAS, Buckingham 225 Development, Inc. (Daniel W. Dodrill), owner of the property located at 5301-5326 Sanibel Captiva Road, has authorized Brian Smith, Ensite, Inc., to submit Development Application No. DP-2021-001803 and Major Subdivision Plat Application No. SPLT-2022-000074 (the "subject applications") to allow for a Unified Residential Housing (Cluster Housing) development including six parcels for single-family residential use and associated improvements, known as "Coastal Creek" subdivision; and

WHEREAS, the subject applications were initially approved by Sanibel Planning Commission Resolution 23-001; however, a timely appeal of Planning Commission Resolution 23-001 was filed pursuant to Land Development Code Section 82-98 – Appeals; and City Council, after consideration of the appeal, remanded the subject applications back to Planning Commission for a new hearing by Sanibel City Council Resolution 23-024; and

WHEREAS, the applicant has reiterated its requests for approval of the subject applications; and

WHEREAS, a duly noticed public hearing of the subject applications was held before the Planning Commission on July 25, 2023; and

WHEREAS, after providing the applicant, staff, and the public an opportunity to present testimony and evidence, and having reviewed the record, and all applicable sections of the Land Development Code including Section 86-40(b), the Planning Commission finds that the criteria for granting the applications have been met and that the application should therefore be approved.

NOW, THEREFORE, BE IT RESOLVED, THE PLANNING COMMISSION OF THE CITY OF SANIBEL finds that Development Permit Application No. DP-2021-001803 and Major Subdivision Plat Application No. SPLT-2022-000074 to allow for a Unified Residential Housing (Cluster Housing) development including six parcels for single-family residential use and associated improvements, known as "Coastal Creek" subdivision on property owned by Buckingham 225 Development, Inc. (Daniel W. Dodrill), and located at 5301-5326 Sanibel Captiva Road, and more fully identified as Tax Parcel No. 13-46-21-T2-00002.2000 and 13-46-21-T2-00002.4000, is approved.

Any approval of this Development Permit Application is pursuant to the application and attachments included with these items, and subject to the following condition(s) contained in the July 25, 2023, staff report:

1. A copy of the approved preliminary plat is attached to this resolution as Exhibit "A". Preliminary plat approval shall be effective and valid for a period of three years. The planning commission may, however, extend this effective period for an additional two years, provided that, at the time such extension is granted, the preliminary plat continues in compliance with all requirements of this Land Development Code and the Sanibel Plan. If all requirements for approval of a final subdivision plat, and the recording of such plat, are not completed within the time period for which preliminary approval is valid and effective, such preliminary approval and all rights conferred thereby shall be terminated and expire.
2. Preliminary plat approval may be extended by city council for an additional period of time beyond the three-year effective time period and the two-year extension that may be approved by the planning commission due to the necessity of achieving compliance with federal, state or local regulations pertaining to endangered or protected species and respective habitat or due to other unforeseen environmental conditions.
3. The applicant shall submit for final approval, a final subdivision plat in accordance with the requirements of Land Development Code Section 114-89 – Final plat review and approval.
4. A copy of the approved Coastal Creek Site Development Plans is attached to this resolution as Exhibit "B".
5. All future land use and development shall comply with Exhibit "A" and "B", and all associated requirements of the Land Development Code including, but not limited to:
 - a. Single-family residential and associated accessory uses
 - b. Lot sizes
 - c. Setbacks
 - d. Limitations on vegetation removal and developed area
 - e. Limitation on coverage with impermeable surfaces
 - f. Minimum distance between buildings
 - g. Environmental performance standards
6. The applicant shall execute, and record in the public records of Lee County, a declaration that the residential density allocation for the property has been fully utilized. If the development is to be phased and only a portion of the residential density allocated to the property is to be utilized, then the declaration shall reflect that portion so utilized. The declaration shall be prepared, executed and recorded in accordance with the formalities required under state law for the conveyance of real property, for which the developer shall be responsible. Completion permits shall not be issued for any dwelling units in the development and the subdivision shall not be final until such time as the developer shows compliance with this section.
7. The applicant shall establish a legal entity (a property owner's association) with responsibility for complying with the requirements of this development permit and maintaining the private road, drainage system, utilities, landscape buffers, and wetland preservation. Restrictive covenants for the subdivision are to include the following provisions:
 - a. A provision that requires compliance with the conditions of development permit DP-2021-1803;
 - b. A provision that prohibits any dwelling unit in the subdivision from use as resort housing;
 - c. A provision requiring the Association to maintain the private street, stormwater management system, utilities, landscape buffers, and wetland preservation as conditions of approval for the preliminary plat and construction plans. The Association shall have the authority to make assessments and enforce liens to

- cover the costs and assessments;
 - d. A provision giving the City of Sanibel the right to enforce the Associations obligations to maintain the private street, the stormwater management system, utilities, landscape buffers, and wetland preservation required as conditions of approval for the preliminary plat and construction plans;
 - e. A provision authorizing the City of Sanibel to make repairs and perform maintenance on required facilities, if not done by the Association, and giving the City the right to make assessments and enforce liens for costs of repairs and maintenance;
 - f. A provision providing a notice to lot purchasers that the street within the subdivision is not a public street, is to be maintained by the owners at their expense and is intended to remain a private street in perpetuity;
 - g. A provision that specifies as to each lot how many dwelling units are permitted thereon, including the amount of developed area and coverage assigned to each single-family lot;
 - h. A provision requiring the applicant to provide each property purchase/owner with information about the common open space and preservation areas, including Tracts B, C, D-1, and D-2; and
 - i. A provision in the amendment section of the documents prohibiting amendments to the preceding provisions without the written joinder or consent of the City of Sanibel.
8. Preliminary plat approval shall not relieve the applicant from the requirement of obtaining permits from and complying with lawful requirements imposed by the Florida Department of Environmental Protection, South Florida Water Management District, and any other applicable local, State and Federal law.
9. The applicant shall install all monuments as required by Chapter 177, Florida Statutes, and construct all streets, street signs, drainage facilities, sewage treatment facilities, and other improvements as are necessary to bring the proposed subdivision in full compliance with the following requirements of the Land Development Code:
- a. All streets and other improvements in proposed subdivisions shall be constructed in accordance with all specifications as provided in this chapter and as may be adopted by the city council by resolution as "Subdivision Improvement Construction Requirements;"
 - b. All necessary street signs shall be installed by the applicant in accordance with the prevailing scheme of identifying public and private streets in the city; and
 - c. All necessary drainage facilities shall be constructed as required and approved by the city manager so as to meet the minimum requirements of this Land Development Code and as to accomplish the intent and purpose of this Land Development Code.
10. The applicant shall obtain formal approval of the proposed subdivision and street names from the City in accordance with Ordinance No. 86-27 and City Council Resolution No. 86-67 prior to final plat approval.
11. The applicant may not begin construction of required improvement until construction plans are approved by the City Manager and a construction bond with good and sufficient surety, an irrevocable letter of credit, or equivalent security is provided to the City in an amount equal to the cost of all required improvements, and in a form approved by the City Attorney, conditioned upon satisfactory completion of required improvements in accordance with the approved construction plans during the effective period of the preliminary plat approval.
12. No facility installed underground may be covered over until the facility has been inspected by the City Manager. Other periodic inspections may be required. Construction of required improvements shall not be complete unless and until all the improvements have been finally inspected and approved by the City Manager.
13. Prior to the commencement of development activity, the applicant shall obtain a

vegetation permit to approve revisions of the vegetation plan.

14. A native vegetation buffer shall be installed along the north property line, pursuant to LDC Chapter 122, Article II, Division 3 – Residential Development Along Arterial and Collector Roads.
15. The proposed native plant buffer along the western boundary shall be permitted to mature to the natural height and growth pattern of the plants and maintained in perpetuity to prevent encroachment into the adjacent city-owned preserve.
16. Pursuant to Sec. 122-169(3) and Sec. 122-191, all City-listed and Florida Invasive Species Council (formerly FLEPPC) listed plant species shall be removed from the site and maintained free in perpetuity.
17. The applicant shall submit a copy of the SFWMD preserve management plan annual monitoring reports to the City.
18. The trimming of mangroves or other vegetation within Tract C and Tract D-2 is strictly prohibited, except to access utilities. The Coastal Creek subdivision does not abut the Heron's Landing Lake; property owners do not have riparian rights and are not entitled to a view of the waterbody.
19. All landscaping within the Coastal Creek subdivision shall be 100% native except the six platted lots which are required to be at least 75% native; the use of sod is prohibited.
20. The use of fertilizer containing nitrogen and phosphorus is prohibited within the Coastal Creek subdivision.
21. All new vegetation within stormwater retention areas, including lands between designated home sites, shall comply with Sec. 118-286 – Planting. A revised vegetation plan shall be submitted detailing the native plants installed to vegetate the common area tracts to ensure compliance with this condition.
22. All soil excavated from the site shall be disposed of properly at an off-island location.
23. The applicant shall comply with all provisions of Chapter 86 – Site Preparation, including but not limited to:
 - a. Development activities shall be designed to minimize the amount of fill used in preparation of the site. Soil and other materials shall not be temporarily nor permanently stored in locations which would result in the unnecessary destruction of vegetation. Excess soil, or other material, including dredged spoil, to be disposed of off-site, shall be deposited at specified locations in a manner causing minimal environmental damage.
 - b. Erosion and sediment control measures shall be coordinated with the sequence of grading, development, and construction operations; and shall be maintained for the duration of construction until final landscaping has been installed.
 - c. Removal of vegetation shall be limited to the minimum necessary to carry out development activity, except as required by other provisions of the Land Development Code. The removal of vegetation, by any means other than the use of hand-held tools, shall not occur prior to issuance of a development permit.
 - d. Permanent vegetation shall be installed on the construction site as soon as utilities are in place and final grades are completed. This permanent vegetation must be cared for and maintained in a healthy condition.
 - e. All on-site facilities shall be properly maintained by the owner so that they do not become nuisances. Nuisance conditions shall include but not be limited to:
 1. Improper storage resulting in uncontrolled runoff and overflow;
 2. Stagnant water with concomitant algae growth, insect breeding and odors;
 3. Discarded debris;
 4. Unnecessary noise; and
 5. Safety hazards created by the facility's operations.
 - f. The design, location and construction and the maintenance of all development shall be in a manner that minimizes environmental damage. The developer shall completely restore any environmentally sensitive area or wetland area damaged

during construction. Complete restoration means that the damaged area shall, within two years, be operating as effectively as the natural system did before being destroyed or altered. In designing the site for its ultimate end use, the site shall be graded in such a manner, and development and use shall take place in such a manner, so that there are no point discharges into coastal waters resulting from stormwater runoff and/or from wastewater effluent.

24. Planning Commission recommends that "Tract C", as shown and described by Exhibit "A", approved as conservation use for the protection of wetlands, is designated for inclusion within the Environmentally Sensitive Lands Conservation District and map upon City Council consideration of an amendment to the Sanibel Plan.

EXPIRATION OF PLANNING COMMISSION ACTION: In accordance with Land Development Code Section 82-424(f), when a development order is approved with conditions imposed thereon, such conditions shall be satisfied within the time limit specified in the development order issued by the Planning Commission. When such conditions specify requirements to be completed before a development permit is issued, and no particular time limit is specified for satisfaction of the conditions, such conditions must be satisfied within six months after issuance of the development order. Failure to satisfy a condition imposed upon the approval of a development permit, within the time limit specified therefor, or such extended time period as the Planning Commission may approve upon timely application of the permittee, shall cause the development order approving the development permit to be null and void and of no further force or effect.


EFFECTIVE DATE OF PLANNING COMMISSION ACTION: In accordance with Land Development Code Section 82-97, all actions of the Planning Commission, including those which constitute final decisions, shall be effective upon the date of filing of the adopted Resolution with the City Manager, or at a later date if provided in the Resolution. However, permits authorized by final decisions shall not be issued until one of the following has occurred: 1) The time for filing an appeal to City Council has elapsed; 2) The applicant and all other persons having appeal rights have filed a written waiver of appeal rights; 3) If an appeal has been timely filed, the City Council has finally disposed of the matter.

RIGHT TO APPEAL PLANNING COMMISSION ACTION: In accordance with Land Development Code Section 82-98. Appeals. The applicant is hereby advised that the following persons have the right to appeal a final decision of the Planning Commission adverse to their interests: 1) The applicant; 2) The owner of the property proposed for development; 3) The developer of the property proposed for development; and 4) Any other person residing upon, or owning property within the City, or owning or operating a business within the City, who participated by written comment before or at the Planning Commission hearing or who participated in person or through an authorized agent at the Planning Commission hearing. The appeal shall be filed within 15 days after the date that the Planning Commission decision was filed. The appeal shall be filed with the City manager, and the filing fee shall be paid as a prerequisite to filing.

DISCLAIMER & 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.

PASSED IN OPEN AND REGULAR SESSION OF THE PLANNING COMMISSION OF THE CITY OF SANIBEL, FLORIDA, THIS 25TH DAY OF JULY 2023.

Attest:



Scotty Lynn Kelly, City Clerk
Anna M. Hicks, Acting



Roger Grogman, Chair

Approved as to form and legality:



John D. Agnew, City Attorney

Date filed with City Clerk: 7/25/23

Vote of Commission Members:

Grogman	<u>Aye</u>
Pfeifer	<u>Aye</u>
DeBruce	<u>Excused</u>
Colter	<u>Aye</u>
Nichols	<u>Aye</u>
Welch	<u>Excused</u>
Symroski	<u>Nay</u>