

**CITY OF SANIBEL
PLANNING COMMISSION RESOLUTION 24-13**

A RESOLUTION RECOMMENDING THAT CITY COUNCIL ADOPT AN ORDINANCE AMENDING THE CODE OF ORDINANCES TO SUPPORT THE REBUILDING EFFORTS OF THE COMMUNITY BY EXPEDITING THE REVIEW OF WAIVER APPLICATIONS FOR A CERTAIN PERIOD OF TIME BY AMENDING CHAPTER 82, ADMINISTRATION, ARTICLE III, PLANNING COMMISSION, DIVISION 3, SPECIFIC AUTHORITY, SUBDIVISION XIII, WAIVERS TO LAWFULLY EXISTING NONCONFORMING STRUCTURES AND PROPERTIES LOCATED IN THE GENERAL, TOWN CENTER GENERAL, AND TOWN CENTER LIMITED COMMERCIAL DISTRICTS, SECTION 82-351, AUTHORIZATION, FOR THE PURPOSE OF UPDATING THE LAND DEVELOPMENT CODE REGULATIONS.

WHEREAS, the City Council and the Planning Commission held a joint workshop on June 11, 2024, to discuss aiding hurricane recovery efforts through amendments to the Sanibel Code; and

WHEREAS, the City of Sanibel seeks to support the rebuilding efforts of the community by expediting the review of waiver applications for a certain period of time, while maintaining consistency with the Sanibel Plan and Vision; and

WHEREAS, the Planning Commission, held a legally and properly advertised public hearing on July 23, 2024, at which the Planning Commission heard and considered comments and recommendations from the Planning Staff and the public pertaining to a draft amendment related to expediting the review of waiver applications for a certain period of time; and

WHEREAS, the Planning Commission may recommend to the City Council amendments to regulations of the Land Development Code, in accordance with the standards set forth in Land Development Code Section 82-241.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission finds the proposed amendments to the Land Development Code attached hereto as Exhibit A, are consistent with the Sanibel Plan, meet the above-referenced requirements, and recommends that the City Council adopt said amendments in the form of an ordinance.

PASSED IN OPEN AND REGULAR SESSION OF THE PLANNING COMMISSION OF THE CITY OF SANIBEL, FLORIDA, THIS 23RD DAY OF JULY 2024.

Attest:

Scotty Lynn Kelly, City Clerk

Roger Grogman, Chair

Approved as to form and legality:

John D. Agnew, City Attorney

Date filed with City Clerk: _____

Vote of Commission Members:

Grogman	_____
Pfeifer	_____
Sergeant	_____
Colter	_____
Nichols	_____
Welch	_____
Steiner	_____

EXHIBIT A OF RESOLUTION

Agenda Item
Meeting of

CITY OF SANIBEL
ORDINANCE 24-

AN ORDINANCE AMENDING THE CODE OF ORDINANCES TO SUPPORT THE REBUILDING EFFORTS OF THE COMMUNITY BY EXPEDITING THE REVIEW OF WAIVER APPLICATIONS FOR A CERTAIN PERIOD OF TIME BY AMENDING CHAPTER 82, ADMINISTRATION, ARTICLE III, PLANNING COMMISSION, DIVISION 3, SPECIFIC AUTHORITY, SUBDIVISION XIII, WAIVERS TO LAWFULLY EXISTING NONCONFORMING STRUCTURES AND PROPERTIES LOCATED IN THE GENERAL, TOWN CENTER GENERAL, AND TOWN CENTER LIMITED COMMERCIAL DISTRICTS, SECTION 82-351, AUTHORIZATION, FOR THE PURPOSE OF UPDATING LAND DEVELOPMENT CODE REGULATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning Commission held a legally and properly advertised public hearing on July 23, 2024, on specific proposed amendments to the Land Development Code; and

WHEREAS, the Planning Commission may recommend to the City Council amendments to regulations of the Land Development Code (LDC), in accordance with the standards set forth in LDC Section 82-241; and

WHEREAS, the Planning Commission found the proposed amendments to the LDC as referenced above to be consistent with the Sanibel Plan and meet the requirements of LDC Section 82-241, and recommended by a vote of _ to _ that the City Council adopt said amendments in the form of an ordinance.

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

SECTION 1. The recitals above are true and correct and made a part hereof.

SECTION 2. Sanibel Code of Ordinances, Subpart B. Land Development Code, Chapter 126, is hereby amended with ~~strikethrough~~ language indicating deletions and underlined language indicating additions as follows:

Chapter 82. - ADMINISTRATION

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ARTICLE III. – PLANNING COMMISSION

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DIVISION 3. – SPECIFIC AUTHORITY

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Subdivision xiii. – Waivers to Lawfully Existing Nonconforming Structures and Properties

Located in the General, Town Center General, and Town Center Limited Commercial Districts

Sec. 82-351. – Authorization.

- (a) *Generally.* The planning commission, after hearing, may grant waivers from a set of specific requirements of certain applicable provisions of this Land Development Code's required conditions, but only for those lawfully existing nonconforming structures and properties located within the general, town center general, and town center limited commercial districts, in accordance with the standards set forth in this division, except that the planning commission shall not grant any waiver which will, directly or indirectly, increase the maximum floor area or height allowed for commercially zoned parcels, or that will increase or further the extent of any lawfully existing nonconformity on a commercially zoned property developed prior to the adoption and effective date of this Land Development Code.
- ~~(b)~~ Waivers may be approved as short-form applications, not requiring approval by the planning commission, if, following a disaster, the declared state of local emergency extends beyond six months. All other requirements of subdivision XIII still apply. This provision will automatically sunset on December 15, 2025, unless extended by the city council via resolution.
- ~~(c)~~ Waivers may be granted by the planning commission for the following set of applicable requirements and provisions associated with chapter 126, Zoning, of the Land Development Code:
- (1) The design specifications for off-street parking spaces and loading areas;
 - (2) The installation, location, numbers, types, size, and variety specified for commercial vegetation buffers and landscaping;
 - (3) Modifications and improvements to lawfully existing nonconforming parcels of land, buildings, or structures, (including the roof or other architectural features of such buildings or structures), that are situated within the minimum front, side, or rear yard setbacks for the commercial districts;
 - (4) The maximum allowed land area to be either covered with impermeable surfaces or developed for a specific use, or cleared of vegetation for nonconforming properties located within the commercial districts; and
 - (5) Increase in the number of ingress/egress driveways access to any of the commercially zoned properties that will enhance safety and traffic circulation.
- ~~(d)~~ Conditions. In approving any requested waiver, the planning commission may attach to the approval such conditions and limitations as are necessary to ensure that any development deviating from the requirements of this Land Development Code pursuant to such waiver approval is in compliance with the standards specified in subsection ~~(g)~~(e) of this section and is not detrimental to the public health, welfare, or safety, or to the quiet and peaceful use and enjoyment of adjoining lands and uses. Any development which deviates from the standards of this Land Development Code, pursuant to an approved waiver, but which is not in compliance with the conditions attached to the approved waiver, shall be a violation of this Land Development Code.
- ~~(e)~~ Application and hearing. Application for a waiver shall be made on such form as is provided by the city and shall include such information, as identified in section 82-382, as the city manager determines to be necessary to a complete determination of the

issue. The hearing on the application shall be conducted by the planning commission as for the consideration of an application for long-form development permit as provided in sections 82-97, 82-422, and 82-423.

- (f) *Action upon application.* The planning commission, immediately or within 60 days after closing the hearing, shall, by resolution, take action upon the application. A copy of the resolution shall be forwarded to the owner and the applicant within ten days following the adoption of the resolution.
- (g) *Standards; generally.* The planning commission may grant a waiver upon a positive finding of the following:
- (1) The applicant's request must be able to identify the specific hardship or practical reason for not being able to meet the regulation as a result of the particular shape, size, location, or topography of a lot or parcel, or of a structure thereon, which would cause practical difficulties that would deprive the owner of reasonable use and enjoyment of such lot or parcel in the same manner as other properties similarly situated;
 - (2) The applicant's request must be able to identify any special conditions related to unusual constraints peculiar to the specific lot or parcel, or relate to special conditions of the structure involved, and that are not generally applicable to other lands or structures similarly situated;
 - (3) The applicant's request cannot be based upon the cost of redeveloping in compliance with the Land Development Code and must serve the public interest by way of not increasing any negative impacts upon surrounding properties and land uses nearby;
 - (4) The proposed waiver shall not diminish property values in, nor alter the essential character of, the area surrounding the site and shall not otherwise interfere with or negatively impact the customary use and enjoyment of adjacent property owners and their lands;
 - (5) The proposed waiver shall not be ~~not be~~ adverse to the developed neighborhood scheme and will not adversely affect the plan and scheme set forth in this Land Development Code, and will not cause the proposed development to be inconsistent with the Sanibel Plan nor adverse to the health, safety, and general welfare of the community; and
 - (6) The waiver granted must be the minimum necessary to mitigate the hardship demonstrated.