



City of Sanibel

Planning Department

May 7, 2013

SUPPLEMENTAL STAFF REPORT

Adoption Hearing for the Evaluation & Appraisal Report-based Amendment to the *Sanibel Plan*

ALTERNATIVE AMENDMENT TO WETLANDS CONSERVATION LANDS MAP

ISSUE

Whether to remove a developed 2 acre single family residential lot from the Interior Wetlands Conservation District?

The location of the subject parcel is shown on the map attached to this supplemental report.

Note: The Wetlands Conservation Lands Map shows the District as recommended in the EAR-based Plan Amendment (i.e. 12 parcels added and 3 parcels removed)

BACKGROUND

The Evaluation and Appraisal Report of the *Sanibel Plan*, adopted on December 4, 2012, recommend amendments to the Interior Wetlands Conservation District.

In the review of Section 3.2.2.Conservation, some revisions to the Plan for the Interior Wetlands Conservation District were recommended. One of those recommendations was to extend the criteria for inclusion in the District beyond the boundaries of the Freshwater Management Area to include the entire watershed of the Sanibel River.

Many of the parcels recommended for inclusion in the District are in the Sanibel River watershed but outside the Freshwater Management Area. All but one of the parcels recommended for inclusion in the District are owned by the City, the Sanibel-Captiva Conservation Foundation (SCCF) or the United States Bureau of Land Management.

The other parcel recommended for inclusion in the District is owned by the Sanibel Place Property Owners Association, but this land is subject to a conservation easement held by SCCF. All of the parcels recommended for inclusion in the District are managed for conservation purposes.

The following list identifies the 12 parcels (comprising approximately 72.1 acres) recommended to be added to the Interior Wetlands Conservation District on the Wetlands Conservation Lands Map:

PARCELS BEING ADDED TO THE DISTRICT

<u>Location</u>	<u>Owner</u>	<u>Acreage</u>
21-46-22	US Bureau of Land Management	8.6
25-46-22	SCCF	0.8
25-46-22	Sanibel Place POA (with SCCF conservation easement)	3.7
25-46-22	SCCF	12.9
25-46-22	SCCF	1.3
25-46-22	SCCF	3.9
25-46-22	SCCF	6.6
26-46-22	SCCF	0.5
28-46-22	City of Sanibel	1.6
34-46-22	City of Sanibel	1.0
36-46-22	City of Sanibel	9.2
36-46-22	City of Sanibel	22.0

There is also a recommendation that three parcel be removed from the District.

The Wetlands Conservation Lands Map identifies the San-Cap Medical Center site (4301 Sanibel-Captiva Road) as being in the District. However, the Mid-Island Ridge portion of this site is also identified as a Special Use District, amending the Ecological Zones Map (Ordinance no. 82-27). The appropriate resolution of this conflict in zoning designations is to remove, from the approximately 1.5 acres of Mid-Island Ridge portion of this site, the Interior Wetlands Conservation District designation.

In 2007, the City corrected a mapping error and included a small 5000sf lot that is part of the site of the vacant restaurant on Tarpon Bay Road. This correction added commercial zoning to the subject parcel on the Commercial Zoning Map, but this small lot remains in the Interior Conservation District. This situation also creates a conflict in zoning. An appropriate resolution of this conflict is to remove, from the approximately 0.1 acre portion of this approximately 0.4 acre site, the Interior Wetlands Conservation District designation.

Casa Mariposa and the Sanibel Community Park have been constructed on 49 acre tract owned by the City. This development is located near Periwinkle Way on an approximately 5 acre portion of this larger tract. As a separate parcel, this developed five acre area, does not meet the criteria for inclusion in the Interior Wetlands Conservation District. Because of the relative intensity of these uses that are located on the border of the Interior Wetlands Conservation District, the Planning Department recommends that this developed 5 acres of the 49 acre tract be removed from the Interior Wetlands Conservation District. The other 44 acres of this City-owned parcel remain in the Interior Wetlands Conservation District. This rezoning removes the only multi-family development in the District from the District.

The following list identifies the 3 parcels (comprising approximately 6.6 acres) recommended for removal from the Interior Wetlands Conservation District on the Interior Wetlands Conservation Lands Map:

PARCELS BEING REMOVED FROM THE DISTRICT

<u>Location</u>	<u>Owner</u>	<u>Acreage</u>
20-46-22	San-Cap Medical Center	1.5 aces
26-46-22	vacant restaurant	0.1 acres
26-46-22	Sanibel Community Park	5 acres

PROPOSAL

To remove the 2 acre residential lot located at 1151 White Ibis Drive from the Interior Wetlands Conservation District.

ANALYSIS

The subject parcel is a developed 2 acre single family residential lot located in or abutting Gulf Shores Subdivision. If the subject parcel is removed from the Interior Wetlands Conservation District, permitted uses and development regulations will revert to those for the underlying Ecological Zone (the Lowland Wetlands). The development intensity for the subject parcel remains 0.05 units per acre (permitting 1 dwelling unit on the subject parcel).

PROCEDURE

The procedure is the same as the procedure listed in the May 7, 2013 staff report. As with all ordinances, actions that remove lands from the Interior Wetlands Conservation District require an affirmative vote of not less than 4/5 of the membership of City Council.

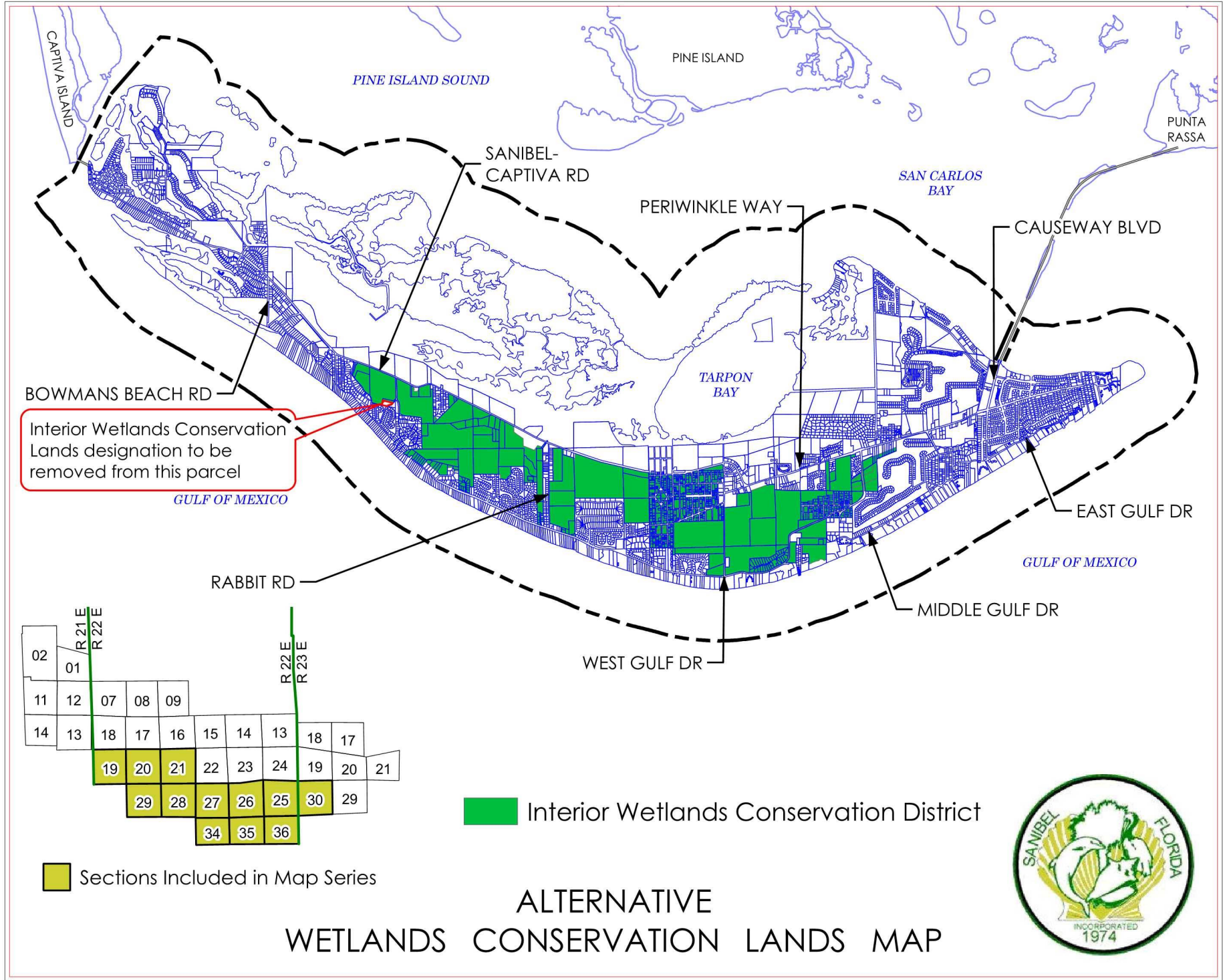
RECOMMENDATION

If City Council decides that the removal of the subject parcel from the Interior Wetlands Conservation District is warranted, the Planning Department has no objection.

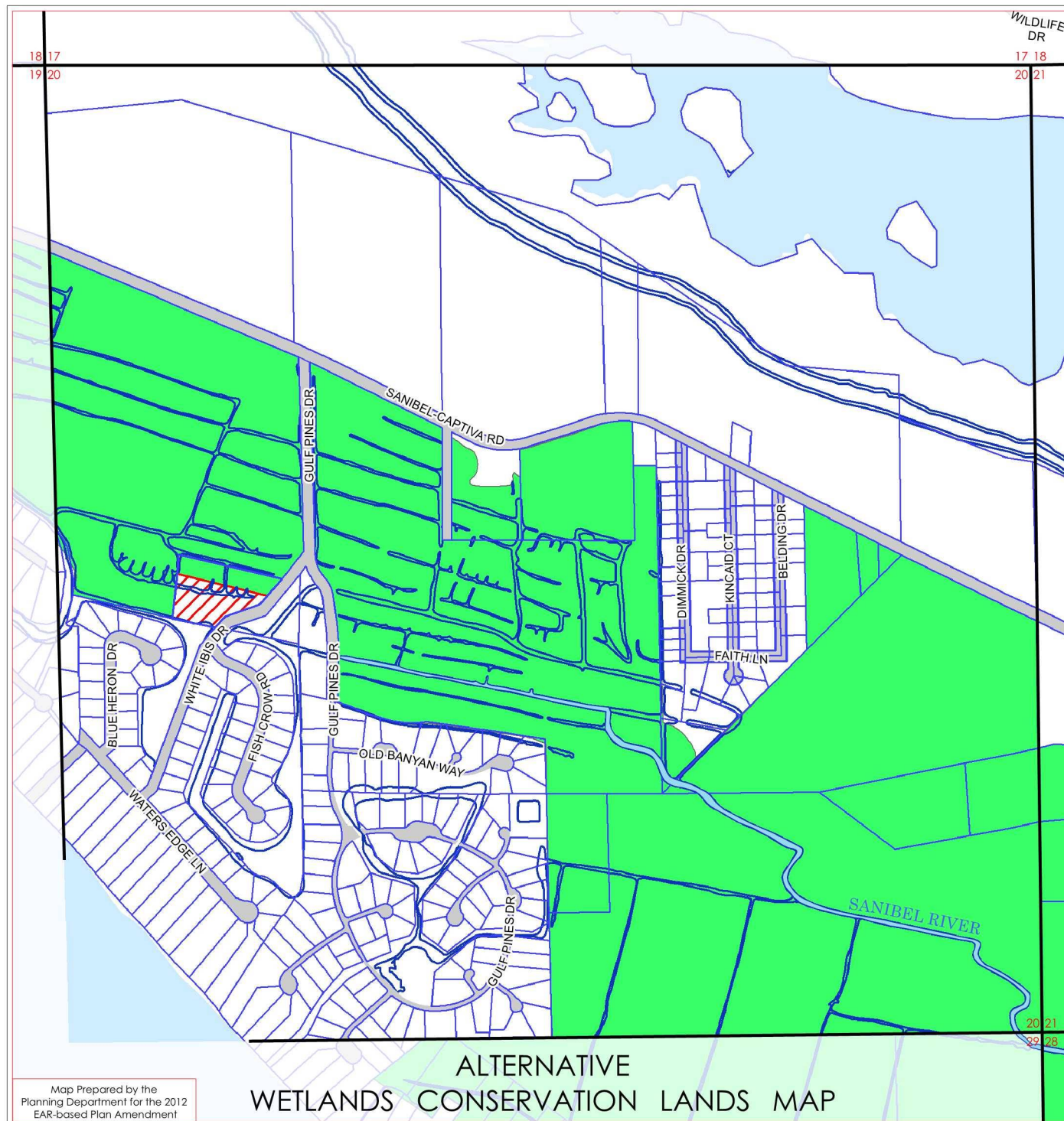
ATTACHMENTS

A small scale copy of the Wetlands Conservation Lands Map

A larger scale copy of an area of the Wetlands Conservation Lands Map
(Section 20, Township 46, Range 22 East)



ALTERNATIVE WETLANDS CONSERVATION LANDS MAP



ALTERNATIVE WETLANDS CONSERVATION LANDS MAP

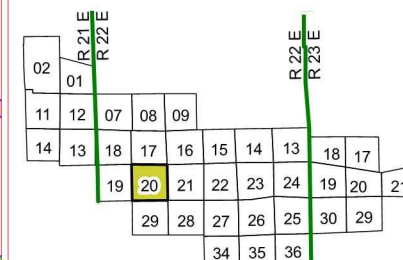
LEGEND

-  Interior Wetlands Conservation District
-  Removed from District



0 200 400 600 800
Feet

KEY MAP



 Area of Detail



SECTION	TOWNSHIP	RANGE
20	46S	22E

**CITY OF SANIBEL
LEGAL DEPARTMENT**



MEMORANDUM

TO: Members of City Council

FROM: Kenneth B. Cuyler *KBC*
City Attorney

DATE: April 29, 2013

RE: Facts relating to Mr. Pappas' request that the parcel at 1151 White Ibis Drive, Sanibel be removed from the Interior Wetlands Conservation District

At the March 5, 2013 public hearing on the EAR and Sanibel Plan (Comprehensive Plan) amendments, Peter Pappas addressed the City Council and requested that a parcel of property which he owns at 1151 White Ibis Drive, Sanibel, be removed from the Interior Wetlands Conservation District. The purpose of this Memorandum is to provide a summary of pertinent facts regarding the parcel and Mr. Pappas' request. The purpose of the Memorandum is not to advocate for or against the request, but rather to relate the facts to City Council as either evidenced by the file, other City records or by the representations made by Mr. Pappas. The facts pertinent to Mr. Pappas' request are as follows:

1. Mr. Pappas owns a single family lot and house at 1151 White Ibis Drive. The lot was included in, and mapped as a part of, the Interior Wetlands Conservation District.
2. Mr. Pappas has maintained for many years that the parcel was improperly and inaccurately placed in the Interior Wetlands Conservation District.
3. Mr. Pappas correctly points out that the parcel/house directly across White Ibis Drive from his house has the same environmental conditions and was not included in the District. Staff agrees the environmental conditions were substantially the same for both parcels.
4. Mr. Pappas produced evidence for the City that his parcel was originally intended to be part of Tahiti Shores (now "Gulf Shores") subdivision – and his deed specifies certain rights that are the same as other lots in Tahiti Shores subdivision. Mr. Pappas produced correspondence from the subdivision developer's representative stating that the original intent was for the parcel to be part of the subdivision.

5. Lots in the Tahiti Shores (Gulf Shores) subdivision are not included in the Interior Wetlands Conservation District and are exempt.
6. Mr. Pappas could have brought this issue up to Council when he was on City Council but did not do so because of his position as an elected official.
7. Mr. Pappas has not threatened litigation but has stated that his heirs or other future owners may assert rights that they have.
8. Mr. Pappas has been advised in the past that the Comprehensive Plan amendment process was the appropriate time for Council to consider this issue, since the action (removal of the parcel from the District) would be through the Comprehensive Plan (Sanibel Plan) ordinance amendment. Mr. Pappas is now raising this issue at the appropriate time for Council's consideration. (Some of the past discussion has been about whether the application for such an amendment should be filed by the City or by Mr. Pappas, but that is not an issue in this case because the Comprehensive Plan (Sanibel Plan) amendment process is already under review by City Council.)

Under these circumstances, although an argument can be made on both sides as to the legal and practical issues involved, it is certainly within the discretion of the City Council to determine that Mr. Pappas has raised legitimate arguments that the City has been inconsistent and inequitable with regard to its application of the Interior Wetlands Conservation District with respect to his parcel of property. If the Council determines that reasonable arguments have been made by Mr. Pappas with respect to the fairness, equity, and application of the rules and regulations for the Interior Wetlands Conservation District, coupled with the City's interest in avoiding present or future legal arguments, claims or remedies on this issue, it is certainly within the jurisdiction and discretion of the City Council to approve, as part of its Comprehensive Plan amendment process, the removal of the parcel owned by Mr. Pappas at 1151 White Ibis Drive, Sanibel, from the Interior Wetlands Conservation District and the map thereof.

If you have any questions regarding this matter, please let me know.

KBC/jg

cc: Judie A. Zimomra, City Manager
James Jordan, Planning Director
Pamela Smith, City Clerk