



City of Sanibel

800 Dunlop Road
Sanibel, FL 33957

Meeting Minutes - Draft Planning Commission

*The times are estimated, but public hearings will not commence prior to
the time stated*

Tuesday, July 25, 2023

9:00 AM

BIG ARTS - 900 Dunlop Rd

1. Call To Order

The meeting convened at 9:02 a.m.

2. Pledge of Allegiance (Chair Grogman)

Chair Grogman led the Pledge of Allegiance.

3. Roll Call

Present: 5 - Chairperson Roger Grogman, Vice Chair Eric Pfeifer, Commissioner Ken Colter,
Commissioner Paul Nichols, and Commissioner Ty Symroski

Absent: 2 - Commissioner Laura DeBruce, and Commissioner Lyman Welch

a. Motion to excuse absent member(s): Commissioner DeBruce and Commissioner Welch

**Vice Chair Pfeifer moved, seconded by Commissioner Colter to excuse absent Commissioners:
Welch and DeBruce. The motion carried.**

Excused: 2 - Commissioner Laura DeBruce, and Commissioner Lyman Welch

4. Public Comments on Items Not Appearing on the Agenda

Public Comment:

- Matt DePaolis - Environmental Policy Director of Sanibel Captiva Conservation Foundation (SCCF) - spoke to the issue being important enough to address a Community. Adding that Community engagement reflects how much the citizenry cares.

5. City Council Liaison Report

Council Liaison Miller gave a brief report regarding the July 18th City Council meeting as follows:

- Received update from Florida Department of Transportation regarding Sanibel Causeway Repair Project
- Presentation from Assistant County Manager, Glen Slayer regarding the Community Development Block Grants (CDBG) funding for the area
- County Action plan to be published Tuesday, August 1, 2023 followed by 9 public meetings

- Heard first reading of 4 items : elevated swimming pools, driveways, site planning for setbacks, as well as the Recreation Center Fee structure as recommended by the consultant study
- Second readings included: eliminating 180 day limitation for temporary recreational vehicles and trailers, ensuring the use of temporary use permits are in compliance with Senate Bill 250 as well as the design standards for build back. Finally, the Ordinance establishing the Parks and Recreation Advisory Committee.
- Approved two contracts: revenue study for the Building Department and the grant for the Tradewinds Drainage project
- Passed preliminary operating millage rate of 2.9598
- Solid Waste Assessment Rate approved - 7.7% increase
- Conducted a shade session to discuss negotiations with City unions
- Selected auditor from the Selection Committee - CliftonAllenLarson, LLP
- Endorsed the principles set forth by the Captiva Community Panel objecting to the proposed changes to height and density restrictions in South Seas/Captiva within the Lee County Land Development Code

Discussion ensued regarding the causeway spoil island parks. Mr. Symroski noted the increased recreational use by Bailey Road and the Commissioners thanked Vice Mayor Miller for the report.

6. Consent Agenda

- a. Adoption of Minutes: July 11, 2023

Vice Chair Pfeifer moved, seconded by Commissioner Nicols to adopt the July 11th meeting minutes. The motion carried.

7. 9:05 - Public Hearings:

- a. Consideration of a request for Conditional Use Permit, filed pursuant to Land Development Code Section 82-204 - Application and hearing, and Section 126-91 - Eating places, restaurant, grocery stores, etc., not listed as a permitted use, to allow for an existing restaurant (Shima Japanese Steakhouse) an increase of 32 seats (64 seats total) with no increase to the overall seat count at Sundial Resort (285 seats) referenced in Planning Commission Resolution 15-015, located at 1451 Middle Gulf Drive (Sundial Resort) - tax parcel (STRAP) no. 30-46-23-T4-00009.0010. The application is submitted by Lisa Bramm on behalf of the property owner RLR Investments LLC.
Application No. CUP-2023-000156.

Planning Director Paula McMichael read into record the description of application CUP-2023-000156.

Deputy City Clerk Anna Hicks polled the Commission for site visits, ex-parte communications, and conflict:

- Chair Grogman	Site Visit	No Ex-parte	No Conflict
- Vice Chair Pfeifer	Site Visit	No Ex-parte	No Conflict
- Commissioner Colter	Site Visit	No Ex-parte	No Conflict
- Commissioner Nichols	Site Visit	No Ex-parte	No Conflict
- Commissioner Symroski	Site Visit	No Ex-parte	No Conflict

By motion and second, Commissioners DeBruce and Welch were excused from the meeting.

Deputy Clerk Hicks swore in the following:

- Craig Chandler - Deputy Planning Director
- Holly Milbrandt - Natural Resources Director
- Paula McMichael - Planning Director
- Lisa Bramm - On Behalf of property owner RLR Investments LLC

Craig Chandler, Deputy Planning Director spoke to the proposed request to allow an existing restaurant (Shima Japanese Steakhouse) an increase of 32 seats with no increase to overall seat count. Mr. Chandler summarized the staff report and detailed the attachments included with the agenda packet and gave a brief presentation regarding the proposed changes. Mr. Chandler noted Sundial being compatible with its use, and recognizes this does not change the overall seat count for the property in accordance with Planning Commission Resolution 15-015. Mr. Chandler noted no public comment had been received as of this meeting and that staff recommends approval with the 12 conditions listed in the staff report.

Discussion ensued regarding the front landscaping buffer and whether the beach and dune buffers were compliant. Mr. Chandler noted that prior to Hurricane Ian, the resort was legally conformed use to develop. Further discussion ensued regarding sea turtle lighting and whether the large proposed windows would be compliant. Lisa Bramm, representing the property owner noted the contractor, Sanibel Glass, being very familiar with Sanibel standards and regulations. Director Holly Milbrandt added that staff had reviewed the plans and added standards for sea turtle lighting regulations.

Commissioner Symroski moved, seconded by Vice Chair Pfeifer, to adopt Resolution 23-23, approving application CUP-2023-000156 with the 12 conditions listed in the staff report, to close the public hearing in this matter, and to authorize the Chair to execute the Resolution without bringing it back for further consideration. The motion carried 5-0 with Commissioners DeBruce and Welch excused.

Excused: 2 - Commissioner Laura DeBruce, and Commissioner Lyman Welch

- b.** Consideration of an application for Development Permit pursuant to Land Development Code Chapter 82, Article IV, Division 2, Subdivision III - Long-Form, Section 82-421(1) and Section 82-422 - Scheduling and notice, accompanied by a Major Subdivision Plat filed pursuant to Land Development Code Section 114-106 - 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. The subject properties are located at STRAP tax parcel no. 13-46-21-T2-00002.2000 and 13-46-21-T2-00002.4000. The application is submitted by Brian Smith, Ensite Inc., on behalf of the property owner, Buckingham 225 Development Inc. (Daniel W. Dodrill). **Application No. SPLT-2022-000074 and Application DP-2021-001803.**

Planning Director Paula McMichael read into the record the description of applications of SPLT-2022-000074 and DEP- 2021-001803.

Deputy City Clerk Anna Hicks polled the Commission for site visits, ex-parte communications, and conflict:

- Chair Grogman	Site Visit	No Ex-parte	No Conflict
- Vice Chair Pfeifer	Site Visit	No Ex-parte	No Conflict
- Commissioner Colter	Site Visit	No Ex-parte	No Conflict
- Commissioner Nichols	Site Visit	No Ex-parte	No Conflict
- Commissioner Symroski	Site Visit	No Ex-parte	No Conflict

By motion and second, Commissioners DeBruce and Welch were excused from the meeting.

Deputy Clerk Hicks swore in the following:

- Craig Chandler - City of Sanibel - Deputy Planning Director
- Holly Milbrandt - City of Sanibel - Natural Resources Director
- Korroush Saeian - President of Heron's Landing HOA
- Cathy Kozik - 5419 Osprey Court
- Sally Haynes - 5430 Osprey Court
- Doug Stimmel - 5418 Osprey Court
- Gil Dendinger - 5406 Osprey Court
- Melissa Laidlaw - 1983 My Tern Court
- Ed Ridlehoover - 4547 Buck Key Road
- Menashe Ben-David - 1983 My Tern Court
- Barbara Joy Cooley - Environment Committee CoChair - Committee of the Islands
- Brian Smith - Ensite - on behalf of Applicant Buckingham 225 Development Inc
- Don Main - RMA Geologic Consultants
- Dan Dodrill - Applicant Buckingham 225 Development Inc
- Sawyer Smith - Attorney on behalf of Applicant Buckingham 225 Development Inc

Attorney Agnew spoke to the process for the hearing, stating that this was an entirely new hearing and the previous applications and evidence were not being considered today. Deputy Planning Director Chandler entered the staff report including

attachments as City exhibit C-1. Mr. Chandler provided a brief Powerpoint presentation that detailed the project and the task of the Commission.

Holly Milbrandt, Director of Natural Resources, spoke to the report provided by the Natural Resources Department, speaking to the history of the site being a wastewater package plant and focusing on departmental processes to review Land Development Code Section 86-40. Ms. Milbrandt further summarized her report and spoke to the positives of Unified Residential Housing also known as Cluster Housing. She further detailed the part of the City owned parcel which contains an existing active bird rookery, including how this property does not directly abut the lake but the department would still be reviewing to protect the adjacent environmental habitats. Ms. Milbrandt additionally spoke to water discharge and the distance from the vegetation setback standards. Ms. Milbrandt then detailed working with the Department of Environmental Protection (DEP) to locate the Certificate of Completion for remediation of the site. Ms. Milbrandt detailed how the City changed the zoning use of the property which included additional soil testing that was submitted to the DEP who required no additional testing. Ms. Milbrandt concluded by detailing the soil and groundwater reports included in the staff report.

Mr. Chandler spoke to the Staff recommendation of approval with the 25 conditions listed in the staff report.

Commissioner Colter stepped out of the meeting at 10:16 a.m.

Chair Grogman asked the applicants to provide their presentation:

Sawyer Smith spoke to staff being thorough and that the applicant agrees with all conditions listed except the one that requires 100% native coverage in the landscaping, requesting the allowance for 75% native coverage on the six residential lots.

Commission Colter rejoined the meeting at 10:20 a.m.

Commissioner Symroski inquired of Staff about process, detailing how he sees two applications - one for clearing and developing the plot and the other being the preliminary plat planning neither of which authorize the immediate building of homes. Mr. Chandler confirmed. Mr. Symroski spoke regarding the final plat approval and how the plots would be numbered and no longer named by monument/place/legal description. He further inquired about requiring an HOA (Home Owners Association) to maintain the common areas, noting this could be the only time to look at these standards and require more deed restrictions. Mr. Chandler noted the final plat review will include all the concerns Mr. Symroski brought forward but that today the Commission would be looking at the actual building and landscaping techniques to

protect the environment.

Vice Chair Pfeifer reminded the Commission why the item was remanded back from City Council due to failure to properly apply LDC Section 86-40 - Location and Construction Maintenance that minimizes environmental impacts. Mr. Pfeifer noted Staff was doing a good job at presenting the information and minimizing environmental damage. Commissioner Colter and Chair Grogman echoed Vice Chair Pfeifer's comments.

Public Comment:

- Mr. Bob Brooks - Attorney for Heron's Landing Homeowners provided a brief Powerpoint presentation (Presentation added to the record.)
- Doug Stimmel - 5418 Osprey Court - overall spoke to concerns with nutrient loads in the lake
- Cathy Kozik - Heron's Landing Resident - spoke to the need to be stewards of the land and use of the environment around Sanibel
- Melissa Laidlaw - spoke to health concerns with blue-green algae. Commission inquired about the date of the photo in the presentation. Ms. Laidlaw noted it was taken by Natural Resources on June 21st.
- Sally Haines - Osprey Court - spoke to living on the most polluted lake on the island and inquired why the City would allow more homes to be built on or near the most polluted lake on Sanibel Island.
- Dr. Korroush Saeian - Cardiologist - spoke to environmental issues being exacerbated by algae blooms.
- Ed Riddlehoover - Sanibel Bayous - expressed concerns for the maintenance at the entryway to Herons Landing, Sanibel Bayous, and others, noting there was no mention that Coastal Creek would be required to help with the maintenance at the front of the development.
- Gil Dendinger - spoke to the need to work with homeowners to make the plat a preserve. Owners would have to agree to sell to preserve this land thus the Sanibel plan could be abided by.
- Barbra Joy Cooley - Committee of the Islands: Environment Committee Chair, Commended residents of Heron's Landing and Sanibel Bayous for bringing discussion forward.

Chair Grogman spoke to the process of the hearing, concerns for whether construction will exacerbate issues with the lake or remediate them, would this change help or hurt, and to what degree the Community acts in order to find a benefit for all parties.

The meeting recessed at 11:17 a.m. and reconvened at 11:22 a.m.

Sawyer Smith introduced Don Main, who provided a brief background of his

experience and stated the proposed development would not exacerbate the nutrient loads of the lake. Commission inquired why the nutrient loads would not get worse to which Mr. Main simply answered that the typical remediation was completed and that fill was placed on the site following remediation.

Commissioner Nichols inquired if the testing was comprehensive enough, if the report was based on DEP's request for additional sampling, inquired about the depth of testing, and noted hearing two different scientists on either side of the table. The Applicant's team then clarified that the testing had been performed at the proposed locations of the homes.

Discussion ensued whether there would be more data if more samples were taken and the types of nutrients found in the soil bores. The Commission further inquired about the comment that phosphorus has no adverse health effects which Mr. Main confirmed. Vice Chair Pfeifer noted the Community recognizes issues with phosphorus loads, forcing water around the land and not through it.

Chair Grogman spoke to the removal of the soil remediation effort and inquired if that the accepted remediation effort. Further noting that encapsulation is not DEP's methodology simply because it's still there. Mr. Grogman concluded by inquiring if the City did anything more than place more fill and scrape the soil to which Staff replied they followed the recommendations of the DEP.

Mr. Brooks stated in looking at plans and site; construction will only disturb the necessary areas to build homes and roadways. Limiting disturbances by adding more fill and not digging, adding more layers. He further noted working with the City's rules and requirements. Getting conditions that have gone above and beyond any other property but being happy to comply.

Discussion ensued in regards to damages to the lake water quality and what factors in overall lake health. Continued discussion ensued regarding excavation and digging for utilities. Commissioner Symroski inquired if the excavated materials from digging for utilities and landscaping will be held in a nonporous container so that rainwater does not leach the underlying ground. Some means during the excavation to contain the phosphorus loaded soil.

Deputy Planning Director Chandler noted the condition only addresses excavation in terms of placement of a residential swimming pool. Excavation does not address plantings or utility placement.

Discussion ensued regarding setbacks and exterior home maintenance and whether contractors or owners would be doing work outside the property line in order to make repairs. For example erecting scaffolding for repair work entering the protected

common areas and or neighboring properties. Mr. Chandler noted Staff would not authorize work that impacts any of these areas.

Discussion continued regarding the condition for 100% native vegetation. Commissioner Symroski inquired about the front of the road and entrance landscaping. Mr. Smith on behalf of the owner noted the property came with entrance easement access. The deed is included in the agenda packet. Discussion ensued regarding roadside parking. Staff noted the road side parking prohibitions would be enforceable in public rights-of-way.

Vice Chair Pfeifer noted the proposed development is consistent with Sanibel Plan and Land Development Code Section 86-40 (Cluster Housing) and so does the accompanying plat and spoke to the referenced lake not being a concern to the applicant as it is not abutting the proposed site.

Chair Grogman spoke to the lake being singled out due to the extent of the conditions, inquired as to what level the nutrients needed to be to improve the conditions of the lake, concurring with the fact that the Applicants did not cause the nutrient loads in the lake, and if a condition for remediation would be appropriate. Ms. Milbrandt commented that the lake is jointly owned between the City and the 9 owners who abut the lake, noting lake management reports include sampling community lakes as well as the canal system. Additional sampling occurring for all water bodies due to Hurricane Ian impacts. Any additional sampling would require approval and funding by Council.

Public Comment:

- Ralph Brooks - Heron's Landing Attorney - Expressed concerns for lake water quality

Discussion ensued regarding the 75% native/25% non-native requirements and if they were applicable to Heron's Landing or if they too had to comply with 100% native vegetation. Attorney Agnew spoke to the agreement differences. Deputy Planning Director Chandler reminded the Committee that the lake is not included in the proposed conditions by staff as best management practices.

Commissioner Colter inquired if the City should look at the possibility of adding berms or mitigation measures for current Osprey Court owners. Attorney Agnew responded that this would be a City consideration and that conversation has not occurred.

Discussion ensued regarding modifying conditions to allow for 75/25 native vegetation on the small 6 lots and removing all excavated soils from the site, including for swimming pools, foundations, and utility trenches. Attorney Agnew proposed the

amendment to Condition 19 be "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."

Vice Chair Pfeifer inquired if the applicant is comfortable with proposed condition 22 related to soil disposal. Mr. Smith noted the cost being prohibitive and stated that this would be an unfavorable burden for the project. Discussion ensued regarding the City's definition of excavation. Mr. Smith noted the deminimus amount of soil that would have to be removed. Mr. Chandler spoke to the intentions of the conditions and the specifics of the site related to contaminated soils. Mr. Chandler noted the intention was to remediate by the placement of fill being used as opposed to the soil from the original site.

Commissioner Pfeifer moved, seconded by Commissioner Colter to approve Resolution 23-24, approving application SPLT-2022-000074 and DP-2021-0001803 with the 24 conditions listed in the staff report, with the revision to the whereas clause to reference 86-40, and amending Condition 19 as state by Attorney Agnew, to close the public hearing in this matter, and to authorize the Chair to execute the Resolution without bringing it back for further consideration. The motion carried by a vote of 4-1 with Commissioner Symroski opposed and Commissioner DeBruce and Welch excused..

Opposed: 1 - Commissioner Ty Symroski

Excused: 2 - Commissioner Laura DeBruce, and Commissioner Lyman Welch

8. Report from Planning Department

- a. Upcoming meeting dates:
 - i. Planning Commission - Tuesday, August 8, 2023
 - ii. Report to City Council - Tuesday, August 15, 2023 - Chair Grogman
 - iii. Below Market Rate Housing Review Subcommittee Meeting - Tuesday, September 26, 2023

Planning Director McMichael spoke to the next meeting on Aug 8th pertaining to one public hearing for water ward extension and cancelling the October 10th meeting. The Land Development Code Subcommittee meeting on the 24th will be for Green Building standards and best practices. Finally the Below Market Rate Housing Meeting will be held on September 26th.

Holly Milbrandt Director of Natural Resources spoke to Coconut palms and the Proposed changes to vegetation Standards, Senate Bill 250 cannot make more strict rules post storm. Coconut palm was added in 2011 to the invasive exotic plants list. Planting in the gulf beach zone is prohibited and staff has spent lots of time educating the public of the status of the coconut palm. Ms. Milbrandt spoke to reviewing the code to make allowances for plaiting of coconut palms in particular zones.

9. Report from Commission Members

Commissioner Pfeifer inquired about height limits and process for changes on Sanibel to which discussion with staff ensued.

10. Public Comment

There were no additional public comments.

11. Adjournment

There being no further business, the meeting adjourned at 1:36 p.m.