Agenda Item 7.c.
Meeting of March 25, 2025

CITY OF SANIBEL
PLANNING COMMISSION RESOLUTION 25-02

A RESOLUTION RECOMMENDING THAT CITY COUNCIL ADOPT AN ORDINANCE AMENDING THE CODE OF ORDINANCES, SUBPART B LAND DEVELOPMENT, CODE, CHAPTER 126, ZONING, ARTICLE V, NONCONFORMANCES, DIVISION 5, STANDARDS FOR BUILDING-BACK (RECONSTRUCTION) OF STRUCTURES SUBSTANTIALLY DAMAGED BY A NATURAL DISASTER, SECTION 126-212, NONCONFORMING STRUCTURES, TO ALLOW AN EXCEPTION TO HEIGHT LIMITATION FOR RESILIENCY SPECIFIC TO THE BUILD-BACK (RECONSTRUCTION) OF NONCONFORMING STRUCTURES, FOR THE PURPOSE OF UPDATING THE LAND DEVELOPMENT CODE REGULATIONS.

WHEREAS, the Planning Commission, held a legally and properly advertised public on March 4, 2025, 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 updating building-back (reconstruction) of structures substantially damaged by a natural disaster; and

WHEREAS, the Planning Commission finds adoption of a height exception to facilitate increase elevation of the first floor of living area when building-back (reconstruction) a nonconforming structure in the interest of Community Resiliency, a 2025 strategic goal established by City Council; and

WHEREAS, the Planning Commission finds the proposed amendment to be consistent with the Sanibel Plan, as described in the background discussion, Goals, Objectives, and Policies relating to height in Section 3.2.5. Scenic Preservation Element, to ensure the preservation of scenic resources by continued implementation of the development regulations and performance standards of the Land Development Code and other City programs; 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; and

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.

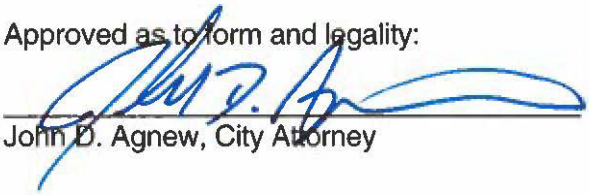
PASSED IN OPEN AND REGULAR SESSION OF THE PLANNING COMMISSION OF THE CITY OF SANIBEL, FLORIDA, THIS 25TH DAY OF MARCH 2025.

Attest:

Anna M. Hicks, Acting City Clerk

Paul Nichols, Chair

Approved as to form and legality:



John D. Agnew, City Attorney

Date filed with City Clerk: March 25, 2025

Vote of Commission Members:

Nichols	Aye
Steiner	Aye
Burns	Aye
Colter	Aye
Schopp	Aye
Sergeant	Aye
Welch	Aye

EXHIBIT A OF RESOLUTION

Agenda Item
Meeting of

CITY OF SANIBEL
ORDINANCE 25-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, AMENDING THE CODE OF ORDINANCE, CHAPTER 126, ZONING, ARTICLE V, NONCONFORMANCES, DIVISION 5, STANDARDS FOR BUILDING-BACK (RECONSTRUCTION) OF STRUCTURES SUBSTANTIALLY DAMAGED BY A NATURAL DISASTER, SECTION 126-212, NONCONFORMING STRUCTURES, FOR THE PURPOSE OF UPDATING THE 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 March 25, 2025, 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 7 to 0 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, is hereby amended with ~~strikethrough~~ language indicating deletions and <u>underlined</u> language indicating additions as follows:

Chapter 126 – ZONING

. . .

ARTICLE V. - NONCONFORMANCES

. . .

DIVISION 5 - STANDARDS FOR BUILDING-BACK (RECONSTRUCTION) OF STRUCTURES SUBSTANTIALLY DAMAGED BY A NATURAL DISASTER

. . .

Sec. 126-212. Nonconforming structures.

(a) When a nonconforming structure is destroyed or substantially damaged by accidental

fire or other natural and disastrous force, such structure may be built back (reconstructed):

(1) Within its pre-disaster footprint;

(2) Within the three-dimensional outline of the lawfully existing habitable area of the pre-disaster building;

(3) Up to its pre-disaster gross square footage; ~~and~~

(4) Up to its lawfully existing number of dwelling units, but;

(5) ~~e~~ Elevated above the base flood elevations required by federal flood regulations, chapter 94 of this Land Development Code, and the Florida Building Code, and conforming in all other respects to the Land Development Code requirements in effect at the time the substantially damaged building is built back (reconstructed) except for height, under the following conditions:

a. When reconstruction or elevation of a nonconforming structure to comply with minimum flood elevation requirements does not conform or increases the degree of nonconformity with applicable height standards; or

b. For the purpose of resiliency from potential future storm surge, the height of the lowest habitable floor of a nonconforming structure may be elevated up to ten feet above existing grade and exceed applicable height limitations proportionally.

(b) Applications to build back a nonconforming structure that was destroyed or substantially damaged by accidental fire or other natural and disastrous force must be filed within 24 months of the date of the destruction or substantial damage to the building that is to be built back. If the declared state of local emergency extends beyond six months, the deadline to make application shall be extended to 36 months.

(c) Replacement of a nonconforming use seawall that was destroyed or substantially damaged by a natural disaster (defined in chapter 78) must follow the standards established for revetments (sections 126-911 and 126-912), or alternative shoreline stabilization project (section 126-99), or section 126-152. An expedited permitting process, which waives the requirement for planning commission approval, may be authorized by the city manager or their designee once confirmation of the destruction or substantial damage is determined to be caused by a natural disaster.

(d) In the case of a historic structure, as defined in chapter 94 or described in chapter 98, reconstruction is permitted as provided in this section, and in addition, in any manner which preserves the integrity of the structure as a historical structure.