

Planning Commission Meeting

October 19, 2023

- Planning Commission Agenda Item : 7C
- Consideration of a recommendation to City Council for an Ordinance amending the Code of Ordinances to adjust maximum building heights within ecological zones and amending a definition, amending Subpart B – Land Development Code, Chapter 78 – General Provisions, Section 78-1. – Rules of construction and definitions; and Chapter 126 – Zoning, Article VII. – Residential Districts; Division 4. – E-1 Blind Pass Area Zone, Sec. 126-334. – Required Conditions; Division 5. – E-2 Gulf Beach Ridge Zone, Sec. 126-354. – Required conditions; Division 6. – D-1 Lowland Wetlands Zone, Sec. 126-374. – Required conditions; Division 7. – D-2 Upland Wetlands Zone, Sec. 126-394. – Required conditions; Division 8. – F Mid-Island Ridge Zone, Sec. 126-414. – Required conditions; Division 9. – C Mangrove Forest Zone, Sec. 126-434. – Required conditions; Division 10. – G Altered Land Zone, Sec. 126-454. – Required conditions.

Questions re: Building Height

Staff has looked for a solution that:

- Does not require a Sanibel Plan amendment.
- Does not increase heights above 45'.
- Does not increase number of stories.
- Does not require a voter referendum.

Questions re: Building Height

- Inconsistent height regulations (different measurements based on different land uses).
- “Compression” of buildings based on required base flood elevations from the Florida Building Code.
- Ability to be responsive to changing regulations and conditions.
- Angle of light considerations.

Sanibel Building Height

Height is regulated by the:

- Sanibel Charter
- Sanibel Plan
- Sanibel Code

City Charter

Section 3.10.4. Ordinances increasing permitted height of building(s).

Actions to increase the permitted height of a building or buildings as established in the Sanibel Plan, as constituted on May 4, 2004, may be taken by the city only by ordinance approved by a majority of qualified city electors at the next general election or a special election called for such purpose; provided, however, that where a condominium building, which is a nonconforming structure, is destroyed or substantially damaged in a natural disaster, reconstruction of which is in all other respects permitted by the Land Development Code, such reconstructed building may exceed the height of the building immediately prior to the disaster by up to one story (1) if, and to the extent, the building must be elevated above ground level to comply with applicable flood abatement laws or regulations and (2) reconstruction without allowing for such additional height would result in the loss of a dwelling unit by its owner. Any law or regulation which is in conflict with this Section 3.10.4 is hereby repealed.

(Res. No. 04-115, § 2, 3-1-2005/9-21-2004; Res. No. 05-045, § 3, 3-3-2005/3-15-2005)

Sanibel Plan

Section 3.2.5. Scenic Preservation Element

Background Discussion ...

A limitation on building heights of approximately 45 feet above mean sea level is also important with respect to scenic preservation of the beach zones. Other regulations designed to conserve the coastal environment are also important to scenic preservation. A lower building height limitation is appropriate for single-family residential areas in order to retain the character of the community.

The height of all new buildings is not to exceed three stories above the base flood elevation. However, Section 3.10.4 of the City Charter, as amended on March 1, 2005, addresses building back condominium buildings that are substantially damaged by a natural disaster. Where a condominium building, which is a nonconforming structure, is destroyed or substantially damaged in a natural disaster, reconstruction of which is in all other respects permitted by the Land Development Code, such reconstructed building may exceed the height of the building immediately prior to the disaster by up to one story (1) if, and to the extent, the building must be elevated above the ground level to comply with applicable flood abatement laws or regulations and (2) reconstruction without allowing for such additional height would result in the loss of a dwelling unit by its owner.

Sanibel Plan

Plan for Scenic Preservation

...

Policy 1.1. The height of buildings will not exceed three stories above the base flood elevation. However, that where a condominium building, which is a nonconforming [sic] structure, is destroyed or substantially damaged in a natural disaster, reconstruction of which is in all other respects permitted by the Land Development Code, such reconstructed building may exceed the height of the building immediately prior to the disaster by up to one story (1) if, and to the extent, the building must be elevated above the ground level to comply with applicable flood abatement laws or regulations and (2) reconstruction without allowing for such additional height would result in the loss of a dwelling unit by its owner.

Sanibel Plan

While the reference to 45 ft. is within a section of the Plan labeled as “background discussion,” the entire Plan has been adopted, see page 245, Section 5.5.1:

- *The Ordinance (no. 12-010) incorporating the Plan document, together with the plan document, constitutes the Sanibel Plan.*

Sanibel Plan – Florida Statutes re: comprehensive plans

Per Florida Statutes, all development must be consistent with the comprehensive plan, see §163.3161 Florida Statutes (2023):

- (6) It is the intent of this act that adopted comprehensive plans shall have the legal status set out in this act and that no public or private development shall be permitted except in conformity with comprehensive plans, or elements or portions thereof, prepared and adopted in conformity with this act.

And §163.3194:

- (1)(a) After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.

Sanibel Code – height limitations by use

- Residential height limitations (single-family, duplex, multifamily not resort housing):
 - 35' above predevelopment grade (PDG) or 45' NAVD
NAVD is a standardized measurement above mean sea level
 - Subject to primary and secondary angle of light considerations
 - See Sections 126-334, 126-354, 126-374, 126-394, 126-414, 126-434, 126-454
- Institutional height limitation:
 - 35' above PDG or 45' NAVD
 - Subject to primary and secondary angle of light considerations
 - Same LDC sections as above

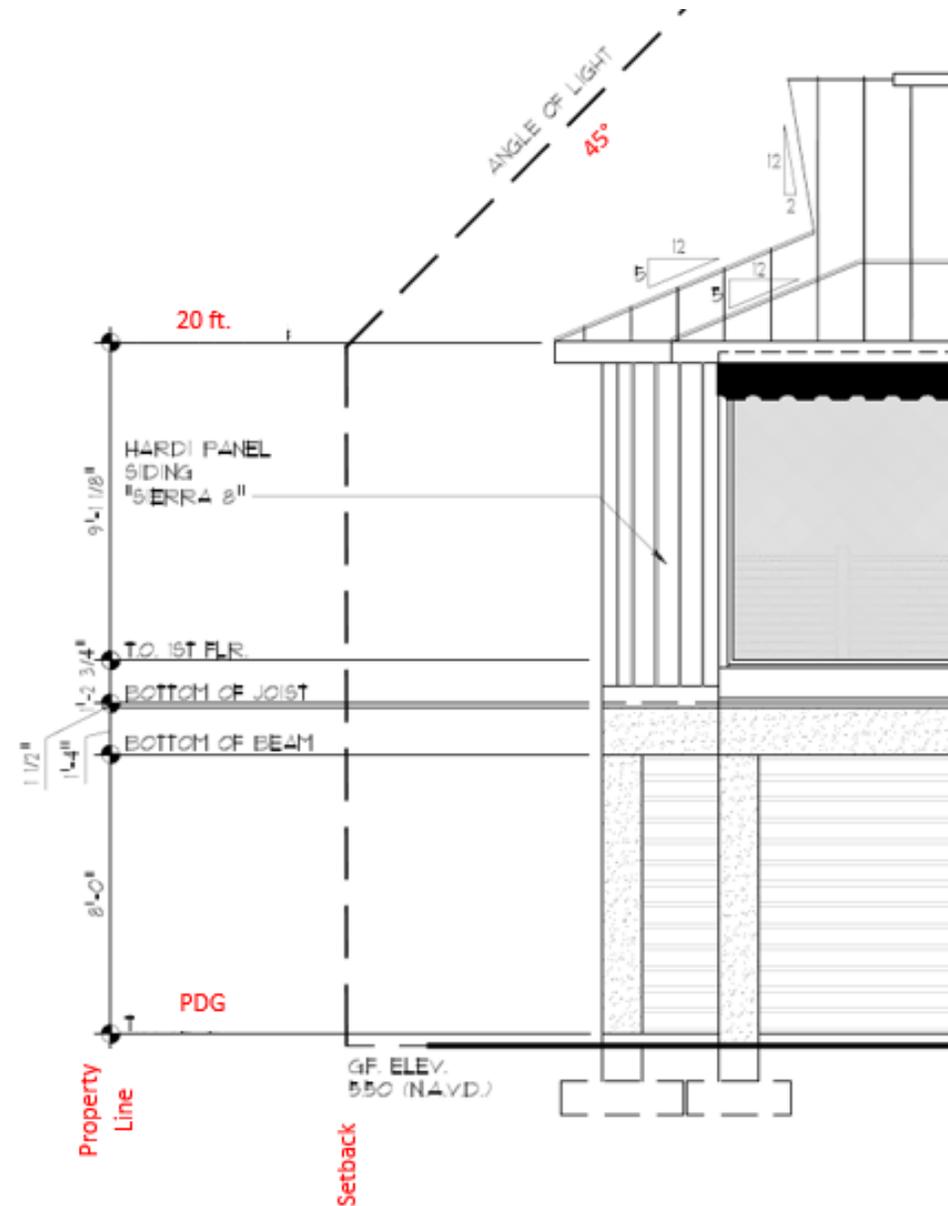
Sanibel Code – height limitations by use

- Commercial districts (General Commercial, Town Center General, Town Center Limited):
 - 45' NAVD
 - See Sections 126-494, 126-514, 126-534
- Resort housing district (*NB not all existing resorts are in the resort housing district*):
 - 33' above required flood elevation, not to exceed 49.8' NAVD (51' NGVD)
 - Additional 8.3' permitted to accommodate sloped roof – up to 58.1' NAVD
 - See Sec. 126-637 (3)

Sanibel Code – Angle of Light

Single-family homes, duplexes, multifamily not resort housing, and institutional uses are subject to a secondary limitation on height referred to as the “angle of light:”

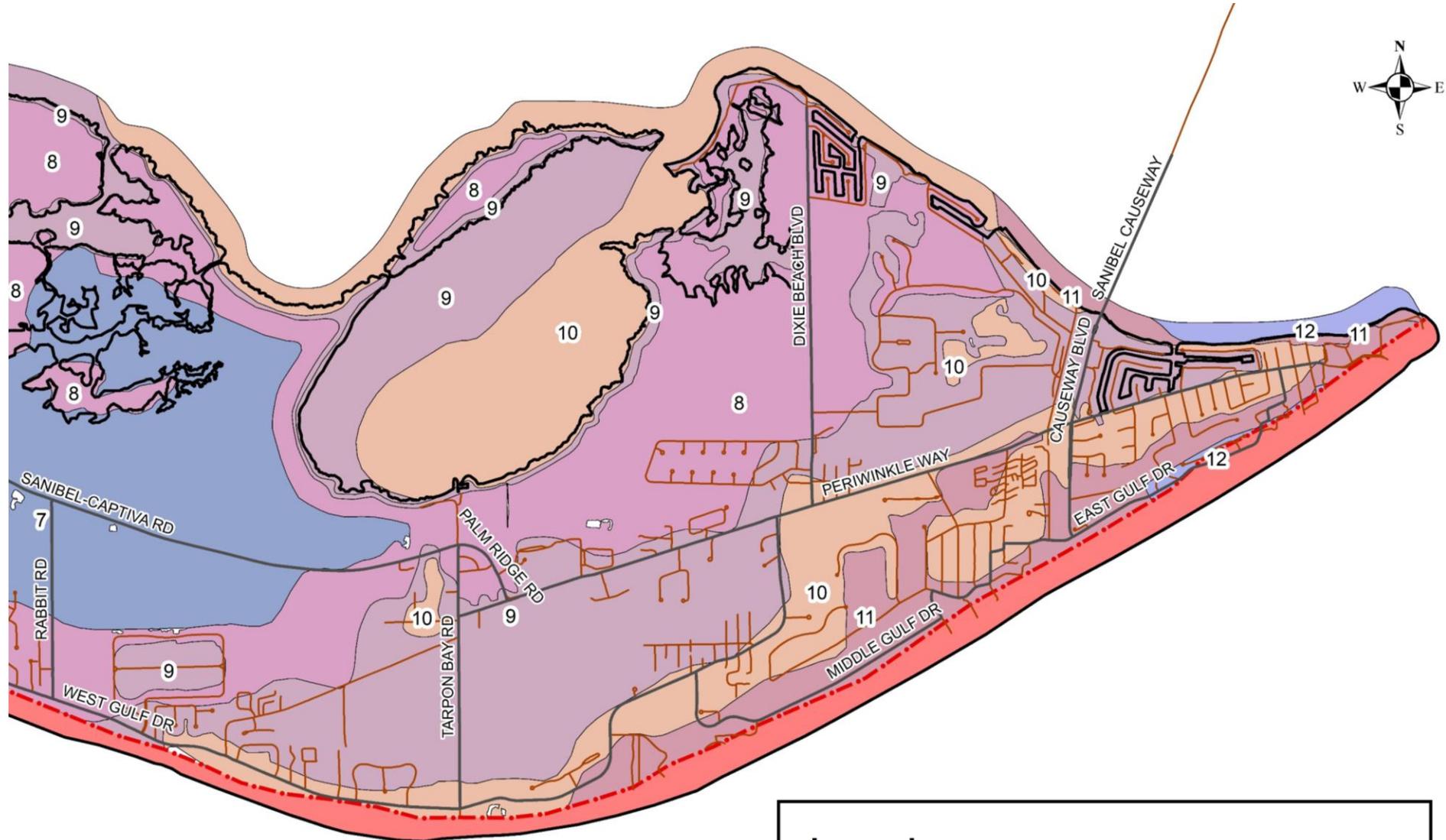
- ... structures ... shall not be of such height or size that they penetrate the planes established by a primary angle of light, which is an angle of 45 degrees measured above horizontal from front, side, and rear yard setback lines, open bodies of water setback lines and other applicable setback lines, all measured at 20 feet above the predevelopment grade of the parcel, such plane projecting upward toward the center of the parcel. ...



Sanibel Code

- Min. predevelopment grade – 3.3 ft. NAVD.
- Required base flood elevations – range from 7 ft. to 18.8 ft.

FEMA Flood Elevations - East



Legend

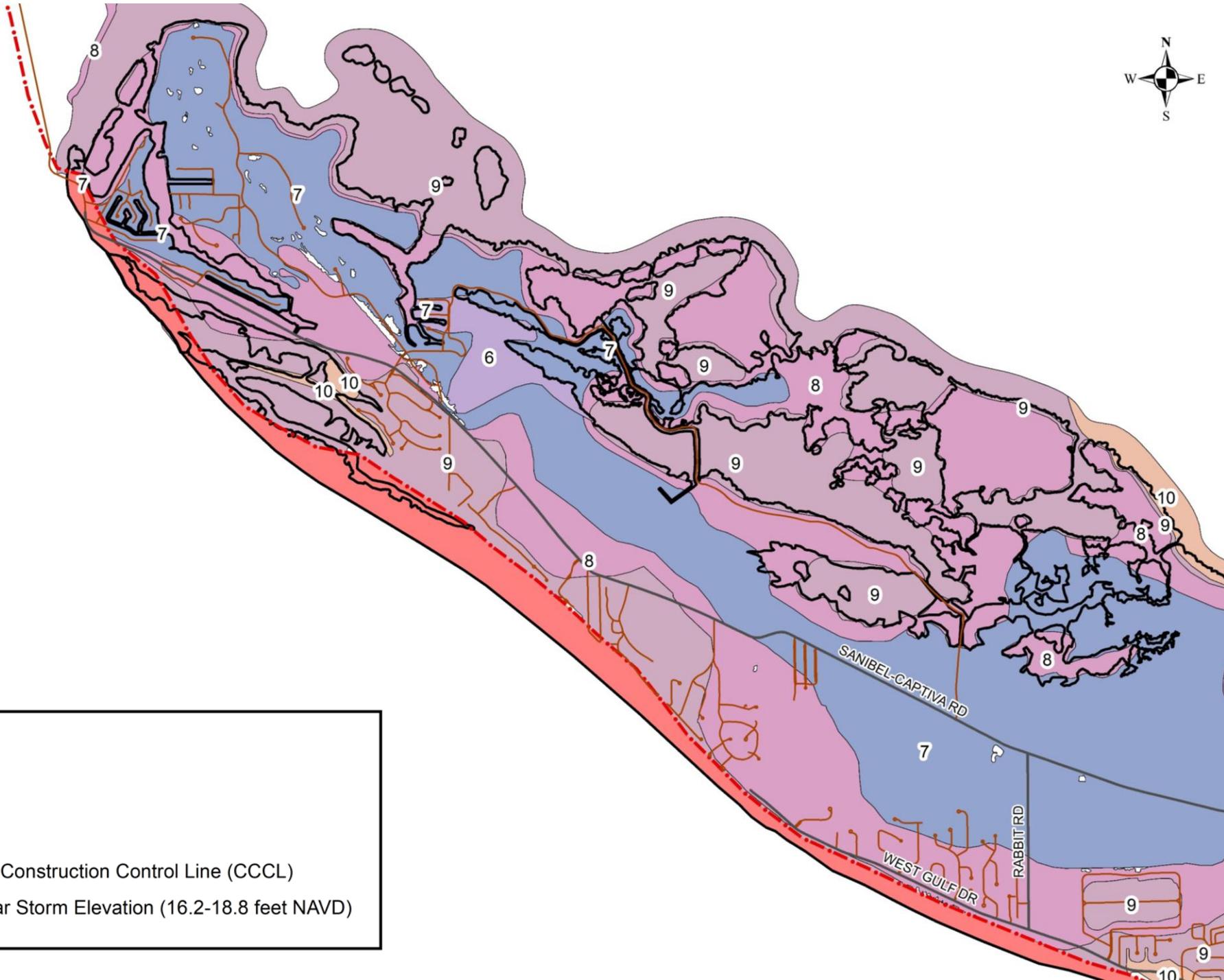
- Major_Roads
- Roads
- - - 1991 Coastal Construction Control Line (CCCL)
- FDEP100-Year Storm Elevation (16.2-18.8 feet NAVD)

FEMA Flood Elevations - West



Legend

- Major_Roads
- Roads
- 1991 Coastal Construction Control Line (CCCL)
- FDEP100-Year Storm Elevation (16.2-18.8 feet NAVD)



Sanibel Code – proposed amendment

- Remove limitation for residential or institutional/civic projects of 35 ft. above predevelopment grade but maintain max. height of 45 ft. NAVD.
- Change primary angle of light measurement from 20 ft. above predevelopment grade to 30 ft. NAVD to maintain 15 ft. difference between max. height and height at setbacks.
- Change secondary angle of light measurement from 25 feet above predevelopment grade to 35 feet NAVD.

Sanibel Code

- Min. predevelopment grade – 3.3 ft. NAVD.

$$3.3' + 35' = 38.3' \text{ NAVD}$$

$$45' - 38.3' = 6.7' \text{ additional height permitted}$$

- Required base flood elevations – range from 7 ft. to 18.8 ft.

Sanibel Code – Proposed Amendment

Sec. 78-1. - Rules of construction and definitions.

(c) Throughout this Land Development Code, the following words and phrases shall have the meanings indicated unless the text of the article or section in which used clearly indicates otherwise: ...

- Angle of light obstruction means the angle establishing an inclined plane above which no part of a structure on a lot, regulated by such restriction, may extend.
~~The angle shall be measured at the intersection of such inclined plane with a horizontal plane, at natural ground level along lot lines.~~

Sanibel Code – Proposed Amendment

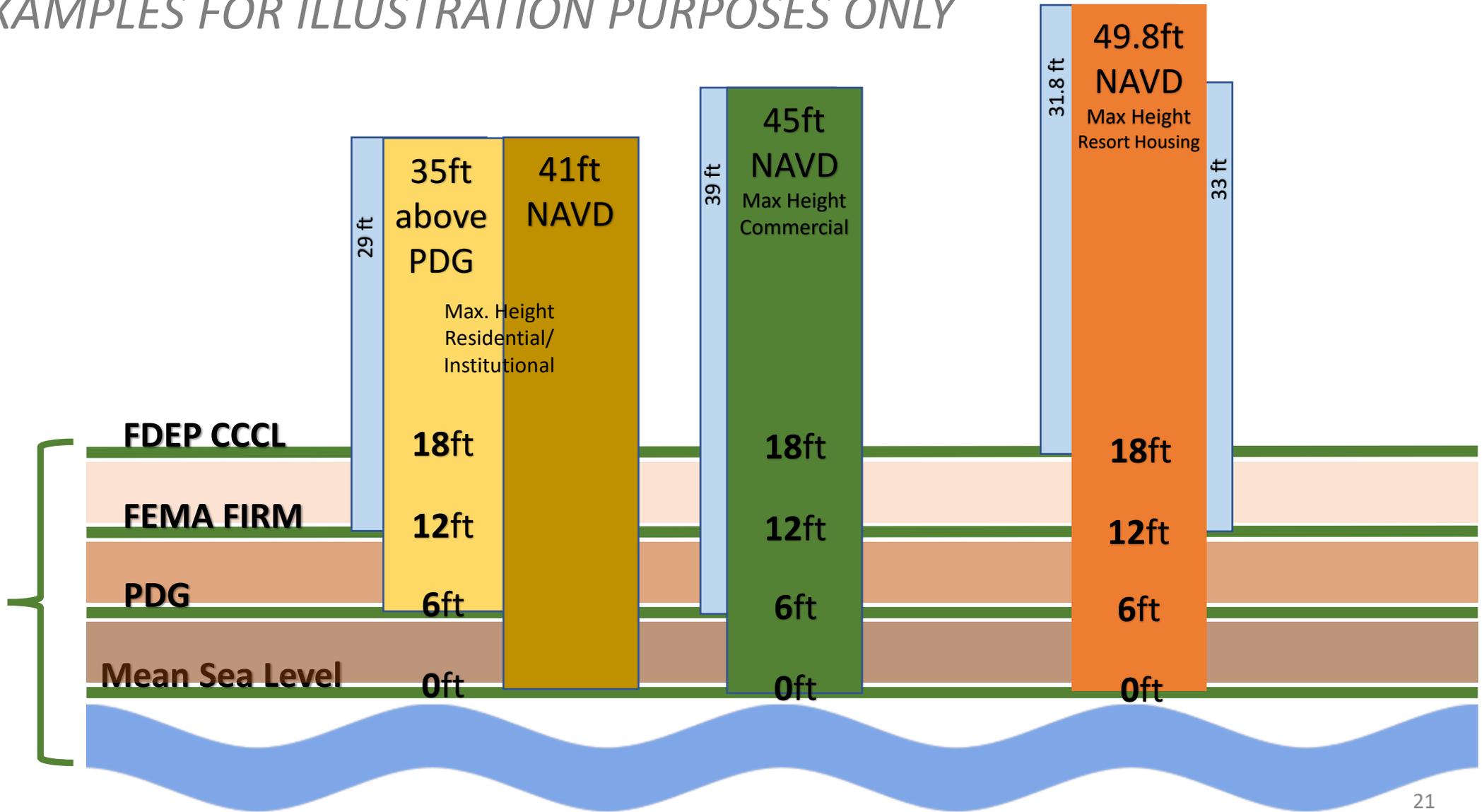
(b) *Height.* Except for structures described in section 126-932 and subsection 126-635(4), no structure, or portion of a structure in the E-2 gulf beach ridge zone shall exceed 45 feet NAVD above mean sea level. ~~As a further limitation, except for multifamily structures in the resort housing district, the height of structures or portions of structures in the E-2 gulf beach ridge zone shall not exceed 35 feet above predevelopment grade.~~ As a further limitation, except for multifamily structures in the resort housing district, structures in the E-2 gulf beach ridge zone shall not be of such height or size that they penetrate the planes established by a primary angle of light, which is an angle of 45 degrees measured above horizontal from front, side, and rear yard setback lines, open bodies of water setback lines and other applicable setback lines, all measured at 30 feet NAVD or 20 feet above the predevelopment grade of the parcel, whichever is less restrictive, such plane projecting upward toward the center of the parcel. The height of all new buildings is not to exceed three stories above the base flood elevation. ...

Sanibel Code

- (3) *Dormers and other architectural features.* Dormers and other architectural features may penetrate the primary angle of light if they project from a single roof plane and if they do not:
- a. Exceed a total of 35 percent of the length of the roof plane from which they project;
 - b. Penetrate a secondary angle of light, which is an angle of 45 degrees measured above horizontal from the applicable setback lines, but measured at 35 feet NAVD or 25 feet above predevelopment grade of the parcel, whichever is less restrictive, such plane projecting upward toward the center of the parcel; and
 - c. Project above the top of the roof from which they project.

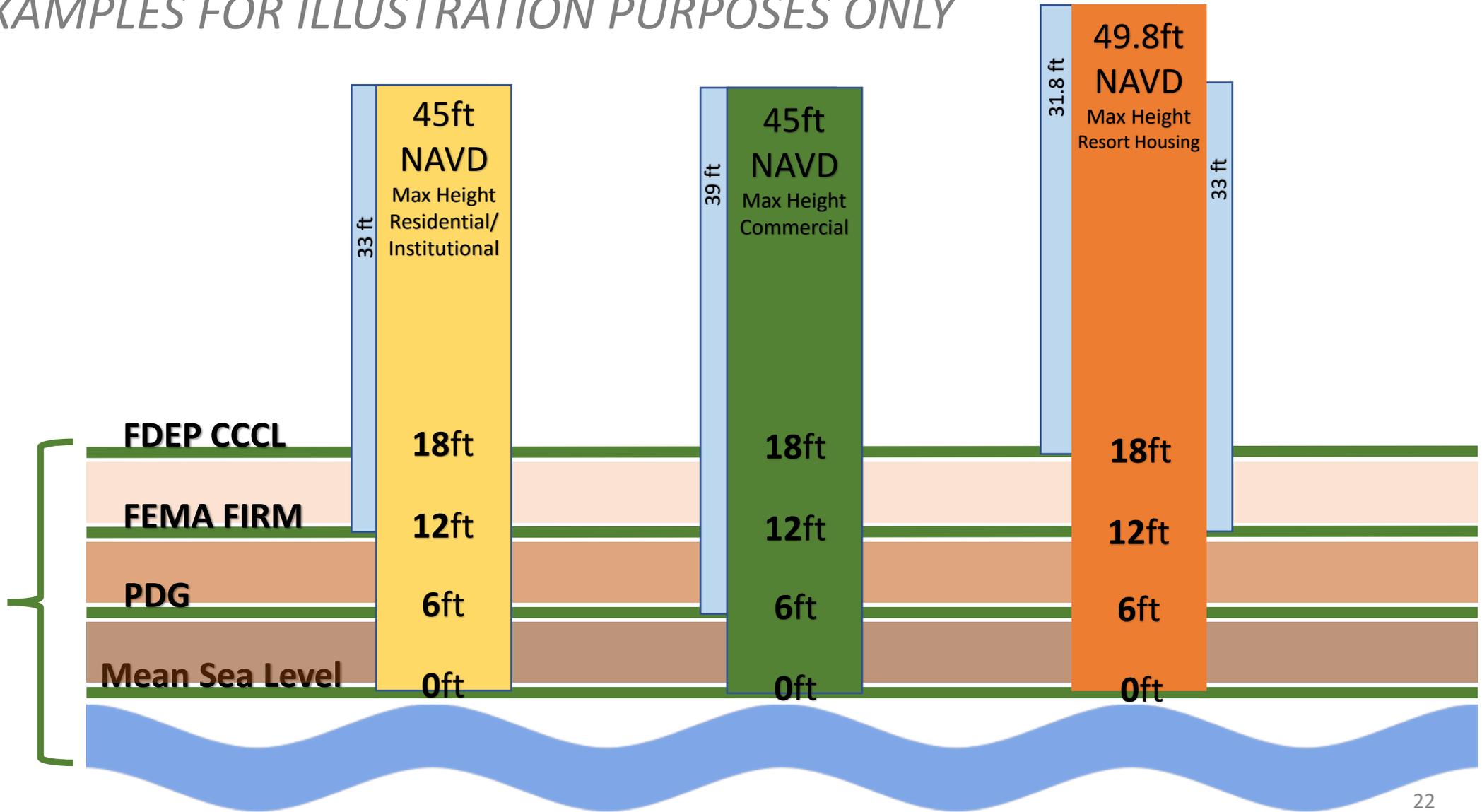
EXAMPLES FOR ILLUSTRATION PURPOSES ONLY

These requirements/conditions vary based on site and are provided as examples



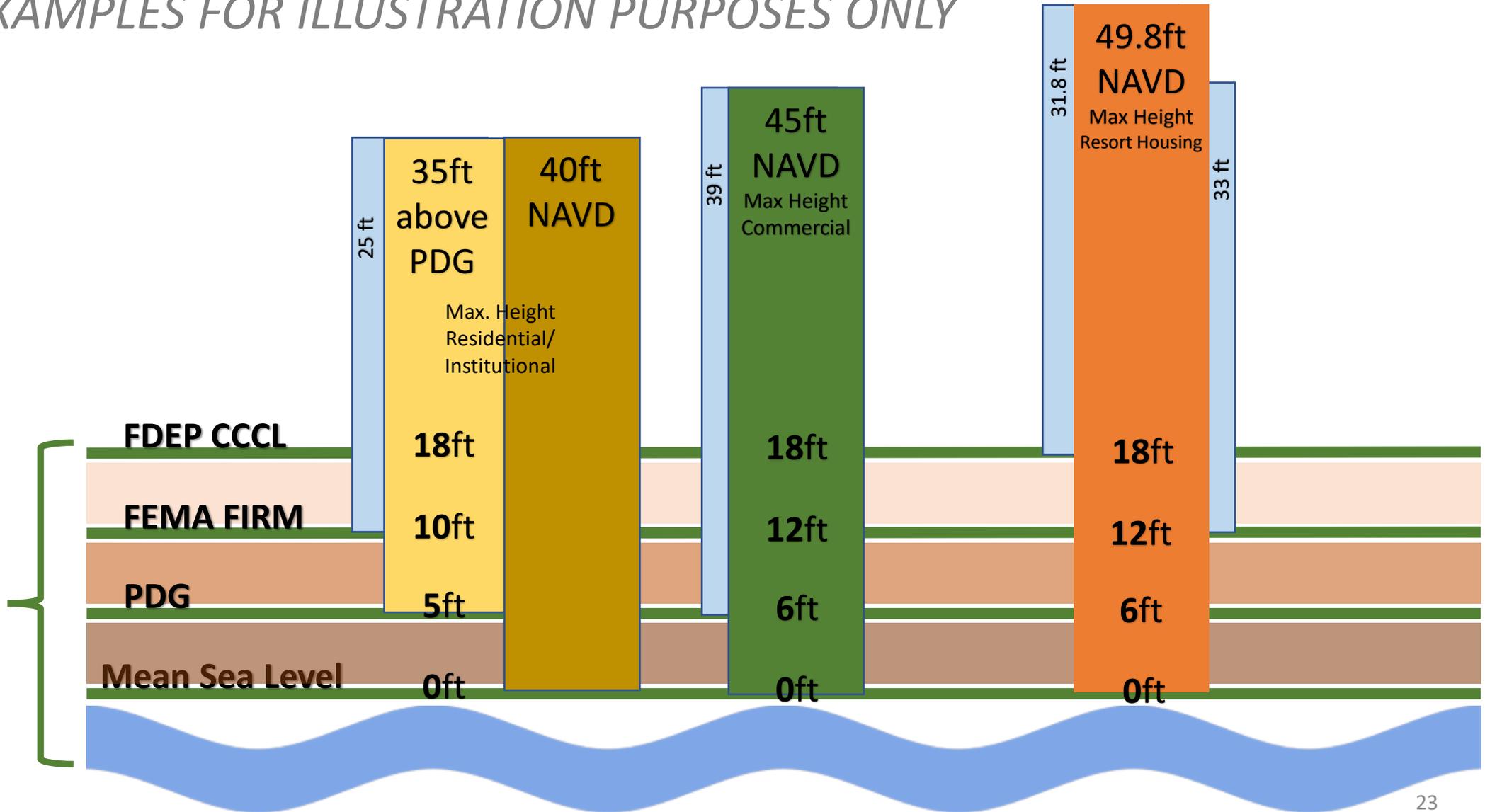
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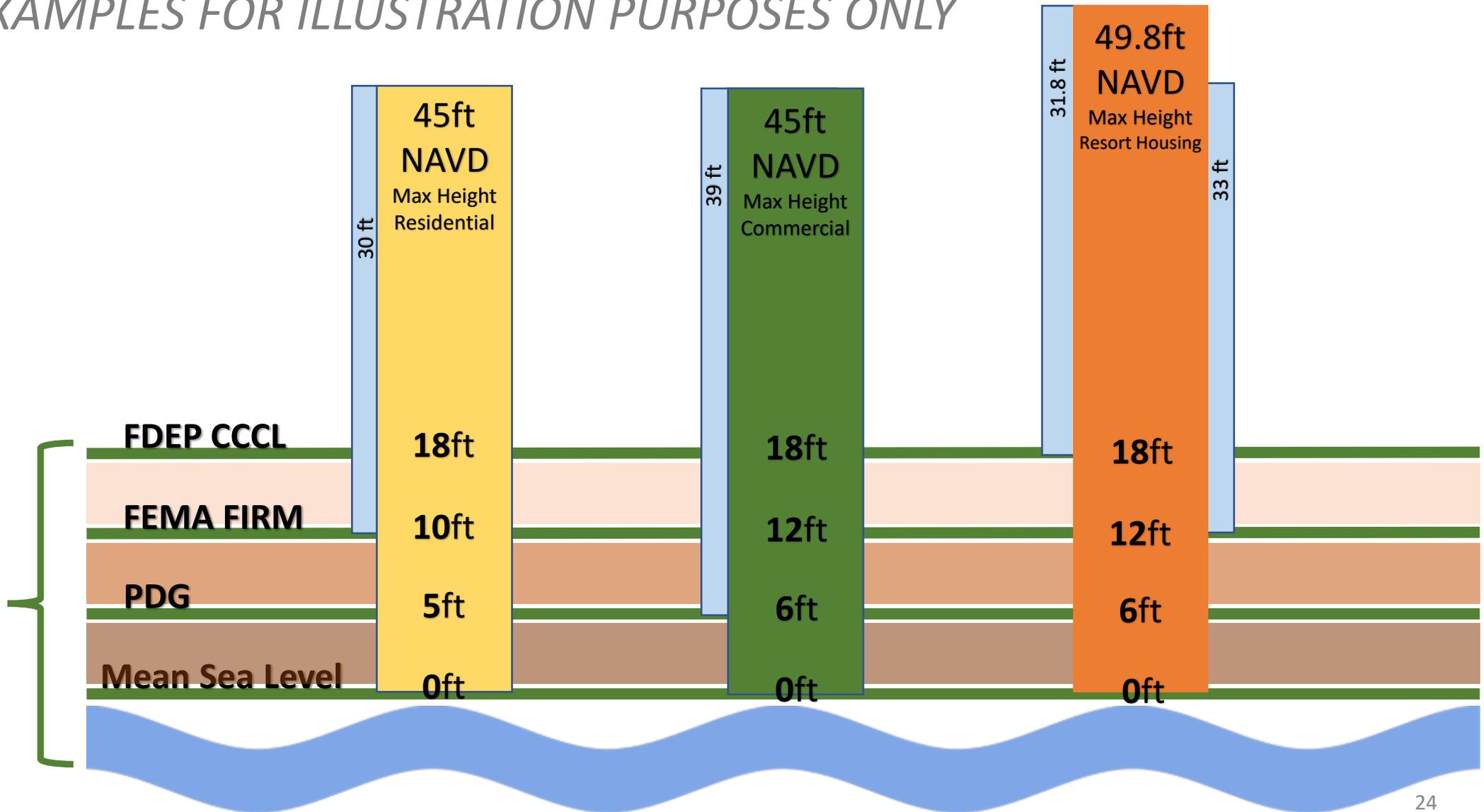
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Effect of proposed changes to the Sanibel Code

- Conforms to existing limitation of 45 ft. NAVD found in Sanibel Plan. Does not require a plan amendment or voter referendum approval.
- No changes to 3-story limitation.
- Modest increase on average of 5 feet allows homeowners to anticipate potential increases to required base flood elevations and to voluntarily elevate above required base flood elevations.
- Addresses all issues related to height and build back currently before staff.

Effect of proposed changes to the Sanibel Code

No changes to Sec. 86-43 - Appearance of structures; size and mass of structures:

- *“Within any zone, taking into consideration applicable flood regulations and other laws, no structure shall be constructed or altered, in any manner, so as to interrupt the rhythm of existing structures in the established neighborhood; or in any manner which would be inharmonious with the general atmosphere and character of the established neighborhood; or, if there is no established neighborhood, the city as a whole.”*

When would a Sanibel Plan amendment be required?

- To remove reference to 45 ft. from the Sanibel Plan.
- To remove restriction on 3 stories above flood elevation.
- Requires a vote of residents per the City's charter:
 - Actions to increase the permitted height of a building or buildings as established in the Sanibel Plan, as constituted on May 4, 2004, may be taken by the city only by ordinance approved by a majority of qualified city electors at the next general election or a special election called for such purpose ...

Staff recommendation

- Maintain limitations of Sanibel Plan - 3 stories above base flood elevation and 45 ft. above mean sea level.
- Amend the Sanibel Code to increase heights for residential and institutional uses, including for angle-of-light.
 - *This encourages people to elevate their homes, creating a more resilient community.*
- Maintain existing height regulations for commercial and resort housing districts.