

**CITY OF SANIBEL
PLANNING COMMISSION RESOLUTION 24-10**

A RESOLUTION RECOMMENDING THAT CITY COUNCIL ADOPT AN ORDINANCE AMENDING THE CODE OF ORDINANCES TO AID HURRICANE RECOVERY EFFORTS BY AMENDING SUBPART B LAND DEVELOPMENT CODE, CHAPTER 82, ADMINISTRATION, ARTICLE III, PLANNING COMMISSION, DIVISION 3, SPECIFIC AUTHORITY, SUBDIVISION V, CONDITIONAL USES, SECTION 82-201, AUTHORIZATION; CHAPTER 126, ZONING, ARTICLE II, CONDITIONAL USE PERMITS, SECTION 126-31, GENERALLY, ADDING A NEW SECTION 126-36, USES IN EXISTENCE SINCE THE CITY'S INCORPORATION; ARTICLE IV, CONDITIONAL USES, SECTION 126-82, GENERAL REQUIREMENTS, FOR THE PURPOSE OF UPDATING 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 expedite certain conditional use permits and amend conditional use application requirements in support of redevelopment 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 conditional uses; 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 AID HURRICANE RECOVERY EFFORTS BY AMENDING SUBPART B LAND DEVELOPMENT CODE, CHAPTER 82, ADMINISTRATION, ARTICLE III, PLANNING COMMISSION, DIVISION 3, SPECIFIC AUTHORITY, SUBDIVISION V, CONDITIONAL USES, SECTION 82-201, AUTHORIZATION; CHAPTER 126, ZONING, ARTICLE II, CONDITIONAL USE PERMITS, SECTION 126-31, GENERALLY, ADDING A NEW SECTION 126-36, USES IN EXISTENCE SINCE THE CITY’S INCORPORATION; ARTICLE IV, CONDITIONAL USES, SECTION 126-82, GENERAL REQUIREMENTS, 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 ~~striketrough~~ 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 V. – Conditional Uses

Sec. 82-201. – Authorization

a. The planning commission is hereby authorized to consider applications for approval of conditional uses and to approve such conditional uses when the applicant demonstrates compliance with all requirements and conditions of this Land Development Code.

b. The following conditional uses may be approved as short-form applications not requiring approval by the planning commission, if, following a disaster, the declared local state of emergency extends beyond six months. All other requirements of Subdivision V remain applicable. This provision will automatically sunset on December 15, 2025, unless extended by the city council via resolution.

1. Eating places, restaurants, grocery stores, etc.

2. Formula retail stores

...

Chapter 126 – ZONING

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ARTICLE II. CONDITIONAL USE PERMITS

Sec. 126-31. – Generally.

The planning commission, or city manager or designee under the allowance of Sec. 82-201 following a natural disaster, shall not authorize the issuance of a permit for a conditional use except in compliance with the specific conditions in this article.

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Sec. 126-36. - Uses in existence since the city’s incorporation.

Uses in existence on the date of the city’s incorporation, which have been in continuous operation and were thereafter required to be approved as conditional uses, are exempted from the requirement to obtain conditional use approval if interrupted by disaster.

Sec. 126-~~37~~³⁶ – 126-60. – Reserved.

...

ARTICLE IV. – CONDITIONAL USES

The planning commission shall authorize conditional uses in the zones in which they are permitted, after public hearing, only upon the following requirements being met:

~~(a)-(1)~~ The proposed development shall not adversely affect compatibility with other uses, either on, adjacent to, or nearby the parcel; ~~shall not adversely affect the traffic flow to a significantly greater extent than permitted uses;~~ and shall not adversely affect the

health, safety and welfare of the community or its goals and objectives; ~~and shall be inherently beneficial to the community or reasonably necessary to its convenience.~~ The proposed development shall not adversely affect the traffic flow to a significantly greater extent than permitted uses; however, there shall be a rebuttable presumption of no such relative adverse effects, absent competent, substantial evidence presented to the contrary.

- ~~(b) (2)~~ A request for conditional use approval shall be accompanied by a site development plan prepared in accordance with the requirements of subsection 82-382(13).
- ~~(c) (3)~~ In reviewing requests for conditional uses, the planning commission may impose, as necessary, conditions to protect adjacent or nearby parcels and in furtherance of the public interests, with regard to location, design, intensity of use, architectural treatment, siting, landscaping, maintenance, and operation of the uses.
- ~~(d) (4)~~ The developer must demonstrate that the proposed use is coordinated, to the greatest extent possible, with adjoining developments. Where applicable, this coordination shall include examination of all opportunities to share or combine drives and entry points, parking areas, sewage treatment facilities, pedestrian walkways, and other service facilities.
- ~~(e) (5)~~ The planning commission shall consider the nature of the site, its size, and its configuration to determine whether the parcel is adequate to:
 - ~~(1) a.~~ Accommodate the placement and arrangement of structures so as to promote the best possible vehicular and pedestrian access and internal circulation;
 - ~~(2) b.~~ Maximize energy efficiency and compatibility with adjoining uses on and off the site; and
 - ~~(3) c.~~ Minimize the need for additional off-site transportation improvements.
- ~~(f) (6)~~ In considering a proposed conditional use for approval, the planning commission shall evaluate the proposal in consideration of the following factors:
 - ~~(1) a.~~ *Conformance with Sanibel Plan.* No conditional use may be approved unless it is in accord with the Sanibel Plan.
 - ~~(2) b.~~ *Internal compatibility.* Any proposed conditional use must be compatible with other existing or proposed uses on the same site; that is, no use may have any undue adverse impact on any neighboring use. An evaluation of the internal compatibility of a conditional use should be based on the following factors:
 - ~~a. 1.~~ The streetscape;
 - ~~b. 2.~~ The existence or absence of, and the location of, open spaces, plazas, recreational areas, and common areas;
 - ~~c. 3.~~ The use of existing and proposed landscaping;
 - ~~d. 4.~~ The treatment of pedestrian ways;
 - ~~e. 5.~~ Focal points and vistas;
 - ~~f. 6.~~ The use of the topography, physical environment, and other natural features;
 - ~~g. 7.~~ Traffic and pedestrian circulation pattern;
 - ~~h. 8.~~ The use and variety of building setback lines, separations, and buffering;
 - ~~i. 9.~~ The use and variety of building groupings;
 - ~~j. 10.~~ The use and variety of building sizes and architectural styles;

- ~~k.~~ 11. The use and variety of materials;
 - ~~l.~~ 12. The separation and buffering of parking areas and sections of parking areas;
 - ~~m.~~ 13. The variety and design of dwelling types;
 - ~~n.~~ 14. The particular land uses proposed₁ and the conditions and limitations thereon;
 - ~~o.~~ 15. The form of ownership proposed for various uses; and
 - ~~p.~~ 16. Any other factor deemed relevant to the privacy, safety, preservation, protection₁ or welfare of any existing or proposed use on the site.
- (3) ~~e.~~ *External compatibility.* All proposed conditional uses must be compatible with existing and planned uses of surrounding properties; that is, no internal use may have any avoidable or undue adverse impact on any existing or planned surrounding use. An evaluation of the external compatibility of a proposed conditional use should be based on the following factors:
- ~~a.~~ 1. All of those factors listed in subsection ~~(f)(2)(6)~~^{(f)(2)(b)} of this section;
 - ~~b.~~ 2. The particular uses proposed₁ and the conditions and limitations thereon;
 - ~~c.~~ 3. The type, number₁ and location of surrounding external uses;
 - ~~d.~~ 4. The Sanibel Plan designation and zoning on surrounding lands; and
 - ~~e.~~ 5. Any other factor deemed relevant to the privacy, safety, preservation, protection₁ or welfare of lands surrounding the proposed conditional use and any existing or planned use of such lands.
- (4) ~~e.~~ *Intensity of development.* The residential density and intensity of commercial use of a conditional use shall be compatible with (that is, shall have no undue adverse impact upon) the physical and environmental characteristics of the site and surrounding lands. Within the maximum limitation of the Sanibel Plan and this Land Development Code, the permitted residential density and intensity of commercial use in a proposed conditional use may be adjusted in consideration of the following factors:
- ~~a.~~ 1. The locations of various proposed uses within the site and the degree of compatibility of such uses with each other and with surrounding uses;
 - ~~b.~~ 2. The amount and type of protection provided for the safety, habitability, and privacy of land uses both internal and external to the site;
 - ~~c.~~ 3. The existing residential density and intensity of commercial use of surrounding lands;
 - ~~d.~~ 4. The availability and location of utilities, services₁ and public facilities and services;
 - ~~e.~~ 5. The amount and size of open spaces, plazas, common areas₁ and recreation areas;
 - ~~f.~~ 6. The use of energy-saving techniques and devices, including sun and wind orientation;
 - ~~g.~~ 7. The existence and treatment of any environmental hazards to the site or surrounding lands;
 - ~~h.~~ 8. The access to and suitability of transportation routes proposed within the site and existing external transportation systems and routes; and
 - ~~i.~~ 9. Any other factor deemed relevant to the limitation of the intensity of

development for the benefit of the public health, welfare, and safety.

- (5) e. *Environmental constraints.* The site of the proposed conditional use shall be suitable for use in the manner proposed without hazards to persons, vegetation, or wildlife, either on or off the site, from the likelihood of increased flooding, erosion, or other dangers, annoyances, or inconveniences. Condition of soil, water level, drainage, and topography shall all be appropriate to the pattern and intensity of development intended.
- (6) f. *Off-street parking.* Sufficient off-street parking, for bicycles and other vehicles as well as cars, shall be provided. The specific requirements of this Land Development Code shall be used as a guide only. Parking areas shall be constructed in accordance with such standards as are approved by the planning commission to ensure that they are safe and maintainable and that they allow for sufficient privacy for adjoining uses.