



City of Sanibel

Planning Commission

STAFF REPORT

Planning Commission Meeting:
Agenda Item:

December 9, 2014
No. 7b.

RE: Review and discussion on the approach to be taken towards the preparation of a draft Ordinance intended to address the redevelopment of existing nonconforming commercial properties, and the establishment of an associated waiver process whereby limited exceptions to certain Land Development Code requirements could be considered by the Planning Commission.

BACKGROUND

Since 2012 the following actions have been completed as part of the City's Commercial District Redevelopment Work Plan established by the City Council's goals.

1. Approval of a vision statement which identifies Sanibel desire ***"To establish and maintain a vibrant and healthy commercial district, consistent with the Sanibel Plan, that provides for the needs and services of Sanibel's residents & visitors."***
2. Collection of data for the analysis of on- and immediately off-island commercial real estate inventory, development, as well as population, and demographic trends and their impact upon the Sanibel market.
3. Identification of Sanibel's strengths and challenges for continuing to maintain and protect the City's sense of place and character as a rural community and sanctuary island.
4. Review of existing and aging nonconforming commercial properties that were developed prior to the City's incorporation.

5. Approved Land Development Code amendments;

- To consider new permitted and conditional uses similar in character and intensity to those use that are currently listed;
- To accommodate Inter and Intra Connectivity between adjacent properties and to the shared use pathway system.

INTRODUCTION

The majority of existing nonconforming commercial properties were built prior to incorporation and are well maintained, however some are beginning to look tired and worn in appearance. At the same time a number of these nonconforming structures and properties have a historical and visual character that is unique to Sanibel. For example, just over 50% of the City's commercial properties were developed prior to the 1970's. Many of these buildings are typically smaller in size and understated in design but they do architecturally reflect Sanibel's rural character. None of the buildings are elevated to meet current flood requirements, they are located closer to the street than allowed, and many of these properties are nonconforming with respect to required floor area, setbacks, off-street parking, drainage, and vegetation buffers and landscaping.

At their September 6, 2014 meeting, City Council was presented with a power point presentation that outlined the accomplishments completed at this time and summarized the remaining components of the redevelopment Work Plan yet to be addressed, which include nonconforming commercial properties, setbacks and off-street parking. This very same PowerPoint, which also included recommendations on how to address the remaining components of the Commercial Redevelopment Work Plan, was presented to the Planning Commission at their September 9, 2014 meeting by Vice Mayor, Doug Congress.

In addressing the redevelopment of nonconforming commercial properties one of the City Council's main directives is to create an equitable and transparent process whereby the redevelopment of these properties can be considered, on a case-by-case basis, by the Planning Commission. Another objective is that when these nonconforming commercial properties do redevelop they move closer to compliance without increasing their nonconformities.

The process itself would be titled **Limited Waivers for the Redevelopment of Nonconforming Commercial Properties** and it would give the Planning Commission the authority to grant limited exceptions or waivers to certain requirements of the Land Development Code provided that these exceptions do not expand or further any existing non-conformities nor constitute a substantial improvement. In addition, waivers from the requirements for commercial floor area, permitted uses, building heights,

outdoor lighting, drainage, waste water, signage and off-street parking cannot be granted by the Planning Commission or through this process. The primary purpose of this process is to accommodate redevelopment which:

- Protects pre-incorporation nonconforming commercial structures and properties that define Sanibel's unique visual character and heritage.
- Reduces the extent of existing nonconformities.
- Encourages reinvestment to improve existing nonconforming commercial structures and properties.
- Provides the opportunity for more flexible site specific planning and design to occur.

It should also be noted that while there are several lawfully existing nonconforming commercial uses located outside of the Commercial District, which were also developed prior to the City's incorporation, this particular legislation waiver process is only applicable to those existing nonconforming commercial properties that are located within the Commercial District.

ANALYSIS AND RECOMMENDATION

After researching how some other municipalities, both within the State of Florida and nationally, have started to incorporate waivers as a way of recognizing that there are certain properties that have existing site design and building limitations and constraints, Staff decided that the waiver process could certainly provide a more flexible method of encouraging the improvement of existing nonconforming commercial properties that are willing to enhance the appearance and function of their properties without expanding their nonconformities when they redevelop. Since every property and property owner's wishes are uniquely different, in the Staff's opinion each waiver should be considered on an individual basis rather than on a one size fits all approach.

In order to evaluate the merits of any particular waive the request should arise from either the physical surrounding, shape, topography or other physical or environmental characteristics of the property. The waiver process would also evaluate the nature of the nonconformities and any negative effects or impact it may have on other surrounding properties and land uses.

With respect to what requirements can receive waivers, staff recommends the following for the Planning Commission's consideration to allow for more flexibility with the site plan design of building and parking layout.

- **Setbacks**

For nonconforming commercial properties wanting to relocate their parking to the rear of the building rather than to the front of it the required front yard setback can be reduced by no more than ½ one half the required distance from the centerline of the right-of-way. All minimum side and rear yard setbacks would remain the same.

- **Coverage with Impervious Surface Areas and Developed Areas**

For nonconforming commercial properties wanting to install pervious brick pavers over their sand or shell parking lot or driveway they can only do so if they already have in place or can provide adequate on-site stormwater retention and drainage improvements that will accommodate any increase in stormwater runoff.

- **Off-street Parking Spaces design requirements**

The Planning Commission may consider the installation of parking spaces designed for subcompact cars for no more than 1 for every 30 required parking spaces.

- **Landscape buffers**

The Planning Commission may consider reducing the depth of any required landscape buffer where the property is constrained physically or abuts conservation land uses.

- **Outline of the waiver process steps:**

The applicant would initially meet with staff to discuss in detail the scope of their proposed redevelopment plan. If there are any waivers associated with the implementation of the proposed redevelopment plan, then the applicant will have filed a request to have the Planning Commission hear the waiver.

The applicant will work together with Staff to achieve the best possible plan for the Planning Commission to consider. At this point the following steps will occur:

- Public hearing by the Planning Commission will be scheduled and heard.
- The hearing will be published and notice of the hearing will be mailed to all adjacent property owners within 300 feet of the subject property that is seeking the waiver.

To grant the waiver request the Planning Commission must make a positive finding on each of the following criteria:

1. The applicant must be able to identify a specific hardship or practical reason for not being able to meet the regulation.
2. The applicant's request cannot be based upon the cost of redeveloping in compliance with the Land Development Code or financial in nature and must serve the public interest by way of reducing any negative impacts upon surrounding properties and land uses nearby.

3. The proposed waiver shall not diminish property values in, nor alter the essential character of, the area surrounding the site and shall not otherwise interfere with or negatively impact the customary use and enjoyment of adjacent property owners and their lands.
4. The proposed waiver shall not be detrimental to the public health, safety or welfare nor create any nuisances, which cause conflict with any applicable requirements of the Land Development Code.
5. The effect of the proposed waiver shall otherwise be consistent of the Land Development Code and Sanibel Plan.

SUMMARY

Based upon the Planning Commission's discussion and comments after today's meeting Staff will return with a draft ordinance for the Commission to consider.