

CITY OF SANIBEL
DRAFT PLANNING COMMISSION RESOLUTION 25-10

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANIBEL DETERMINING AN APPLICATION TO AMEND DPLF-2021-29, FILED PURSUANT TO SECTION 126-152(a)(10), (NONCONFORMING USES) EXCEPTIONS AND PROHIBITIONS, OF THE CODE OF ORDINANCES, TO ALLOW A REVISION TO THE PLANTING PLAN WITHIN THE RIP-RAP WATERWARD OF THE EXISTING SEAWALL, AND AMENDING RESOLUTION 22-03 APPROVED MARCH 8, 2022, CONDITION 6, WHICH APPROVED THE DEVELOPMENT PERMIT, ON PROPERTY OWNED BY BEL LAN APARTMENT OWNERS, INC., AND LOCATED AT 1610 MIDDLE GULF DRIVE, TAX PARCEL (STRAP) NO. 25-46-22-T3-01400.00CE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 126-152 of the Land Development Code details exceptions and prohibitions of altering existing nonconforming use structures, specifically subsection (a)(10), which addresses reconstruction of existing nonconforming use seawalls in human made waterbodies; and

WHEREAS, Bel Lan Apartment Owners, Inc. is the owner of the property located at 1510 Middle Gulf Drive and the applicant; and

WHEREAS, the applicant has requested approval of the application to amend DPLF-2021-29 by amending Resolution 22-03, condition 6, relating to vegetation to be planted among the rip-rap; and

WHEREAS, a duly noticed public hearing of the application was held on April 22, 2025; and

WHEREAS, after providing the applicant, staff, and the public an opportunity to present testimony and evidence, the Planning Commission finds that the requirements for amending condition 6 of Resolution 22-03, vegetation to be planted among the rip-rap, DPLF-2021-29, allowed pursuant to Section 126-152(a)(10) of the Code of Ordinances have / have not been met and that the amendment should therefore be approved / denied.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANIBEL, FLORIDA finds that the amendment of Resolution 22-03, condition 6, vegetation to be planted among the rip-rap, DPLF-2021-29, allowed pursuant to Section 126-152(a)(10) of the Code of Ordinances, is hereby approved as follows:

~~Red mangroves (18 inches minimum height nursery grown seedlings, or equivalent) 330 plants~~
with a mix of black needlerush (*Juncus roemerianus*) and saltmarsh cordgrass (*Spartina alterniflora*) one-gallon container size shall be planted among the boulders on three-foot staggered centers, 3-foot in depth, on the portion of the rip-rap closest to the seawall.

EXPIRATION OF PLANNING COMMISSION ACTION: In accordance with Land Development Code Section 82-424(f) Action on Application. When a development order is approved with conditions imposed thereon, such conditions shall be satisfied within the time limit specified in the development order issued by the Planning Commission. When such conditions specify requirements to be completed before a development permit is issued, and no particular time limit is specified for satisfaction of the conditions, such conditions must be satisfied within six months after issuance of the development order. Failure to satisfy a condition imposed upon the approval

of a development permit, within the time limit specified therefor, or such extended time period as the Planning Commission may approve upon timely application of the permittee, shall cause the development order approving the development permit to be null and void and of no further force or effect.

EFFECTIVE DATE OF PLANNING COMMISSION ACTION: In accordance with Land Development Code Section 82-97. All actions of the Planning Commission, including those which constitute final decisions, shall be effective upon the date of filing of the adopted Resolution with the City Manager, or at a later date if provided in the Resolution. However, permits authorized by final decisions shall not be issued until one of the following has occurred: 1) The time for filing an appeal to City Council has elapsed; 2) The applicant and all other persons having appeal rights have filed a written waiver of appeal rights; or 3) If an appeal has been timely filed, the City Council has finally disposed of the matter.

RIGHT TO APPEAL PLANNING COMMISSION ACTION: In accordance with Land Development Code Section 82-98. Appeals. The applicant is hereby advised that the following persons have the right to appeal a final decision of the Planning Commission adverse to their interests: 1) The applicant; 2) The owner of the property proposed for development; 3) The developer of the property proposed for development; and 4) Any other person residing upon, or owning property within the City, or owning or operating a business within the City, who participated by written comment before or at the Planning Commission hearing or who participated in person or through an authorized agent at the Planning Commission hearing. The appeal shall be filed within 15 days after the date that the Planning Commission decision was filed. The appeal shall be filed with the City manager, and the filing fee shall be paid as a prerequisite to filing.

DISCLAIMER & PERMIT CONDITION (APPLICABLE ONLY IF FEDERAL OR STATE PERMITS ARE REQUIRED): Issuance of a development permit by the City does not create any right to obtain a permit from a State or Federal agency and does not create any liability on the part of the City for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a State or Federal agency or undertakes actions that result in a violation of State or Federal law. If applicable, all other State or Federal permits must be obtained before commencement of the project.

PASSED IN OPEN AND REGULAR SESSION OF THE PLANNING COMMISSION OF THE CITY OF SANIBEL, FLORIDA, THIS 22ND DAY OF APRIL 2025.

Attest:

Scotty Lynn Kelly, City Clerk

Paul Nichols, Chair

Approved as to form and legality:

John D. Agnew, City Attorney

Date filed with City Clerk: _____

Vote of Commission Members:

Nichols	_____
Steiner	_____
Burns	_____
Colter	_____
Schopp	_____
Sergeant	_____
Welch	_____