

CITY OF SANIBEL
DRAFT PLANNING COMMISSION RESOLUTION 26-15

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANIBEL; RELATING TO A VARIANCE (APPLICATION NO. PL20260025) RELATIVE TO SECTION 126-875(1)(b), WATERWARD EXTENSION, TO ALLOW THE INSTALLATION OF A BOAT LIFT WITH A WATERWARD EXTENSION GREATER THAN 15 FEET WATERWARD OF THE MANGROVE ROOTS; AND SECTION 126-876, RELATION TO MEAN LOW WATER LEVEL, TO ALLOW BOAT DOCKING OR MOORING IN AN AREA WITH LESS THAN 3 FEET OF WATER ABOVE THE BOTTOM SURFACE AT MEAN LOW WATER LEVEL, ON PROPERTY OWNED BY GAETTA PARTNERS LP, AND LOCATED AT 5270 INDIAN COURT, TAX PARCEL NO. 12-46-21-T3-00009.0250, FILED PURSUANT TO SECTION 82-138 OF THE LAND DEVELOPMENT CODE; MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 82-138 provides for the application for a variance; and Sections 82-140 of the Land Development Code provides that the Planning Commission may grant variances from the requirements of applicable provisions of the Land Development Code; Section 126-875(1)(b) provides that for shorelines with extensive mangrove vegetation, such structures may extend up to 15 feet waterward past the roots of the mangroves from which the structure projects; provided such structures can be located where the water depth is greater than three feet above the bottom surface at mean low water and the dock with a moored boat or a boat lift does not encroach into the existing navigable channel; and Section 126-876 provides that docks, boat davits and boat lifts, except for such structures located on or adjacent to manmade canals, shall be located so as to provide boat docking or mooring where the appropriate mean low water level is at least three feet above the bottom surface; and

WHEREAS, Gaetta Partners LP, owner of the property located at 5270 Indian Court, has authorized Raychel Thomas, Pavese Law Firm, to submit Application No. PL2060025 to allow the installation of a boat lift with a waterward extension greater than 15 feet waterward of the mangrove roots and to allow boat docking or mooring in an area with less than 3 feet of water above the bottom surface at mean low water level; and

WHEREAS, the applicant has requested approval of Application No. PL20260025 for the property located at 5270 Indian Court; and

WHEREAS, a duly noticed public hearing of the application was held on June 23, 2026; and

WHEREAS, after providing the applicant, staff, and the public an opportunity to present testimony and evidence, and having reviewed the record, the Planning Commission finds that the variance application **does / does not** meet the seven variance criteria required by LDC Section 82-140.

NOW, THEREFORE, BE IT RESOLVED, THE PLANNING COMMISSION OF THE CITY OF SANIBEL hereby approves / denies Application No. PL20260025 to allow the installation of a boat lift with a waterward extension greater than 15 feet waterward of the mangrove roots and to allow boat docking or mooring in an area with less than 3 feet of water above the bottom surface at mean low water level at property located at 5270 Indian Court (tax parcel No. 12-46-21-T3-00009.0250) and owned by Gaetta Partners LP.

Approval of this Variance Petition is pursuant to the application and attachments included with the item, and subject to the following condition(s) contained in the June 23, 2026, staff report:

1. Approval of the two variance requests to allow the 12-foot-wide boat lift to extend 20-feet waterward of the existing mangrove roots and to allow boat mooring of two boats in locations with less than 3-feet of water above the bottom surface at mean low water levels.
2. A Building Permit, Development Permit, and Vegetation Permit must be obtained for the construction of the dock and two boat lifts which is consistent with the proposed site plan (Attachment C to the staff report).
3. Natural Resources authorizes the proposed impacts to marine resources and other native vegetation associated with this project. Staff also approves the mitigation plan submitted by the applicant (dated 5/26/26), which must be installed prior to project completion.

Conditions contained herein are in addition to the requirements of the Sanibel Code. The applicant is required to comply with all regulations of the City of Sanibel. Some conditions stated herein reflect the current code requirements applicable at the time of approval of this permit. After the issuance of the completion certificate for this development or upon expiration of the development permit, any subsequent development or change of use for the parcel must comply with the regulations in effect at that time.

This resolution will take effect immediately upon adoption.

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: **Development Permit:** 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 23RD DAY OF JUNE 2026.

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	_____