



**Meeting Minutes - Draft**  
**Land Development Code Review**  
**Sub-Committee**

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Tuesday, September 24, 2024

10:30 AM

BIG ARTS - 900 Dunlop Road

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**Following Planning Commission Meeting**

**1. Call to Order**

The meeting convened at 10:30 a.m.

**2. Pledge of Allegiance (Chair Nichols)**

Chair Nichols led the Pledge of Allegiance.

**3. Roll Call**

**Present:** 2 - Commissioner Roger Grogman, and Commissioner Eric Pfeifer

Discussion ensued regarding changing the order of the agenda to hear old business before new business.

**Subcommittee Member Welch moved, seconded by Subcommittee Member Grogman, to move old business before new business. The motion carried.**

**4. Consent Agenda**

- a.** Adoption of Minutes: August 13, 2024

**Subcommittee Member Pfeifer moved, seconded by Subcommittee Member Grogman, to adopt the August 13, 2024 minutes. The motion carried.**

**6. Old Business**

- a.** Continued discussion Determination of impermeable coverage (Sec. 86-42)

Planning Director Paula McMichael introduced the continued discussion item. Deputy Planning Director Craig Chandler spoke to determination of impermeable coverage, specifically permeable pavers as it relates to an administrative stay that was implemented in 2014. Mr. Chandler provided additional background of the legislation that was discussed at the August 13, 2024, subcommittee meeting along with history of permits since 2014.

Discussion ensued regarding other administrative stays that may currently be in existence at the Planning Department similar to the permeable pavers administrative

stay. Discussion continued regarding possible correspondence between the Planning Department and the Natural Resources Department pertaining to vegetation buffers. Members requested to get the Natural Resources Department's opinion on vegetation buffers.

Discussion ensued regarding ordinance subsection F- a driveway should not be curved or blocked to allow drainage of stormwater to the adjacent vegetation landscape buffer. Members inquired about certain homes having curved driveways and the process the contactors go through to allow this. Mr. Chandler responded that driveways that are curved or have retaining walls are due to properties that have old buried septic mounds. Discussion turned to buried septic mounds.

Members spoke to there being 10 years' worth of experience that cannot be ignored and to the traffic hazards the vegetation buffers have caused when impacting visibility to pedestrians and cyclists.

Discussion returned to the background of the 2014 code regarding a barrier by driveways with certain requirements for clarification purposes and to concerns from the Natural Resources Department that were brought to the previous City Manager's attention.

Mr. Chandler detailed his recollection of the process, noting reactions from owners and business were not favorable, saying it was not part of the regular work of the paver companies to have a landscaping sub-contractor to maintain the landscaping requirements. Discussion ensued regarding what the issues are today, being tasked to implement code as written, and if an applicant were to do this type of work, they might think there are significant vegetation requirements that deter from applying for the permit or completing the work.

Discussion ensued regarding these guidelines not being enforced by the department, whether there is a need for considering amendments to this section, and the original purpose of the code since it was never enforced.

Members clarified for the different ratios for commercial properties (50% impervious) vs. residential (100%) being due to the parking lots. Mr. Chandler spoke to the goal of Ordinance 14-007 being so permeable pavers and shell were determined the same as far as permeable coverage goes.

City Attorney John Agnew advised passing an ordinance of this nature would conform the code to what is current practice. Discussion ensued regarding the approval of the administrative stay, property owners and others voiced concerns, but the City Manager at the time ultimately approved. Members inquired why this was implemented and why not take it out now since it is not enforced anyway.

Finally, discussion ensued regarding memos from the Natural Resources Department and City Engineer Oisin Dolley.

**Subcommittee Member Welch moved, seconded by Subcommittee Member Sergeant, to ask the Planning Department to get a memo from the Natural Resources Department and the Public Works Department stating their position on these proposed amendments and then bring that as a package to the Planning Commission. The motion carried unanimously.**

- b.** Continuation of the discussion of incorporating green building standards into the Sanibel Code, by creating a “Sustainable Development Program” within Chapter 86, Development Standards, creating Article V, Sustainable Development Program, and adding new sections: Sec. 86-226, Intent, Sec. 86-227, Applicability, Sec. 86-228, Definitions, Sec. 86-229, Administration, Sec. 86-230, Building and Structure Standards, Sec. 86-231, Landscape and Vegetation Standards, Sec. 86-232, Incentives, Sec. 86-233, Solar installations/ EV charging stations; amending Chapter 90, Fees, Article II, Development Permits, Division 5, Miscellaneous, by creating a new Sec. 90-134, Reduction of development permit fees for Sustainable Development Program, and amending Chapter 126, Zoning, Article XIV, Supplementary District Regulations, Division 3, Building and Area Requirements, Subdivision 1, In General, Sec. 126-932, Height exceptions.

Planning Director Paula McMichael introduced the item and Senior Planner Savannah White to talk about sustainable development on Sanibel. Ms. White provided the Subcommittee with an overview of the new Sustainable Development Program, advising the goals and objectives of this program, and noting main challenges as cost, inconvenience, and accessibility.

Members spoke to a previous presentation from Jennifer Landwell and discussed the cost savings on resources. Discussion ensued regarding the concerns that changing the policy would require education and awareness. Discussion continued regarding hosting town halls and public seminars on green standards and providing examples.

Discussion ensued regarding the specific recommendations, looking for comments on code language, and what to bring forward to Planning Commission. Further discussion ensued regarding previous green standard initiative talks from the Committee, if there were specific projects or tasks the city would have to complete to increase the City's rating, and incentives and recommendations for improving building techniques for cost efficiency and overall process.

Discussion ensued regarding sustainability vs. resiliency. The Committee stated they had nothing to object to and enthusiastically supported it.

Discussions turned to providing better definitions in the code, seeing some revisions in the language before forwarding to Planning Commission, and what language to use in the legislation related to "Green Building Practices".

Discussion ensued regarding the certification of the green building for new construction. Members inquired about items needed for submission to the city for green standards from a builder. Discussion continued regarding third party entities for approval and going through the Florida Green Coalition.

Members inquired as to the process for builders that are getting the green building certification to submit their plans, such as to whom, the City or a Florida Green Building Certified Agent. Discussion continued regarding plan review for compliance and the process of receiving a certificate of occupancy.

The Committee inquired about challenges that would be faced with obtaining the certification and receiving a certificate of occupancy, provided examples of concerns that could jeopardize the process, and listing specific entities to work with in the legislation. Staff noted that would not be included due to the nature of changes that could come forward.

Discussion continued regarding costs, consultants, lawyers and builders and expressed concerns on the possibility of burdens to the City. Discussion continued regarding cutting the cost of the permit, as incentive.

Discussion turned to Subsections D3 and C5, under Section 82-233 in the Plan: Preservation District, reason for prohibition, and grandfathered locations. The Committee spoke to restrictions under the subsections and to EV charging.

Discussion ensued regarding the height of solar panels and restrictions. Members requested an expert witness on solar panel installation. Comments were made regarding the expense of solar, not seeing a return on investment, and reliability of solar.

Members inquired about requiring any particular level of certification to receive incentives. Ms. White noted not discriminating between the levels of what residents can afford, and accepting anything anyone is willing to incorporate into their design.

Discussion ensued regarding the different certification levels, whether silver or gold would incur a huge financial commitment, and that platinum certification is expensive.

Public Comment:

- Bob Moore - Resident and Chair of Sanibel Captiva Renewable Energy Working Group - Thanked Commissioners for bringing these items forward. Mr. Moore encouraged identifying easier standards and working with the City and other entities to spread the word and educate the public.

Discussion ensued regarding forwarding the item to the Planning Commission.

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Subcommittee Member Welch moved, seconded by Subcommittee Member Pfeifer, asking the Planning Department to bring the Sustainable Building Practices Program back to the Planning Commission and making amendments in light of the discussion held today. The motion carried unanimously.

## 5. New Business

- a. Consideration of a recommendation to Planning Commission for an ordinance amending the Code of Ordinances to provide an administrative permit review process including flexibility in design for alternative shoreline stabilization projects; amending Subpart B Land Development Code, Chapter 126, Zoning, Article IV, Conditional Uses, Section 126-99, Alternative shoreline stabilization project, and to move the alternative shoreline stabilization project standards to Article XIV, Supplementary District Regulations, Division 2, Accessory Structures, Subdivision IV (a new subdivision), Section 126-920 (a new section), Alternative shoreline stabilization project, for the purpose of land development code regulations.

Planning Director Paula McMichael briefly introduced the item and introduced Principal Planner Kim Ruiz who provided a presentation and reviewed the proposed amendments with the Subcommittee. Ms. Ruiz provided a background on the alternative shoreline stabilization project and how and why it was created.

Commissioner Nichols stepped out of the meeting at 12:21 p.m. and returned at 12:24 p.m. Commissioner Sergeant stepped out of the meeting at 12:21 p.m. and returned at 12:28 p.m.

Director McMichael spoke to current procedures, noting illegally placed rip-raps in the bay beach zone which had been brought to Staff's attention. Ms. McMichael detailed the attempt at a new approach, ensuring what is proposed is consistent with the Sanibel Plan. She further mentioned and reminded the Committee of the protected water species, advising any work below mean-high water requires a federal permit.

Members inquired if the owners were allowed to keep what has been placed illegally. Ms. McMichael noted what a property owner is required to do to comply with the code. City Attorney John Agnew clarified that the City does have the ability to enforce the code as it is written and spoke to the alternatives the Planning Staff proposed for the property owners that are currently in violation. Commissioners discussed enforcing the rules and using code enforcement to ensure compliance.

City Attorney Agnew spoke to some projects being within compliance, just without a permit, while others had been wildly different and would require more details to explain the process to the property owner.

Commissioner Colter stepped out of the meeting at 12:45 p.m. and returned at 12:54 p.m.

Ms. Ruiz detailed the movements of the sections within the code, noting 7 sections in total were moved from a previous subsection.

Discussion ensued regarding being in favor of the way the code is currently written, concerns for the bay front owners not in compliance, and concerns for storm scouring on the beach. Discussion continued regarding consistent designs that come from the city, being more palatable to property owners but could be costly. Discussion ensued regarding grants and other funding opportunities.

Members spoke to the item to Planning Commission before making recommendations to City Council.

Commissioner Pfeifer stepped out of the meeting at 1:03 p.m. and returned at 1:05 p.m.

Discussion ensued regarding hypothetical scenarios of permits for previous installations and what would still be non-conforming. Ms. McMichael spoke to creating an easier process by providing options. She advised the conditional use process is for all shoreline stabilization projects.

Discussion ensued regarding this being an effort to avoid code enforcement while getting properties into compliance. Attorney Agnew spoke to changing the process to administrative approval as opposed to long form which requires public hearings.

Discussion ensued regarding the protection of properties in the bay beach zone and the background to the seawalls in the zone. Ms. Ruiz spoke to the seawall ordinance which regulates what can be done for maintenance or removal of the non-conforming sea walls.

Discussion ensued regarding the best practices of placing a rip-rap in front of a sea wall which requires City, State, and Federal permits. Attorney Agnew spoke to the regulations for how the parcel lines are and how their measurements were made to determine if a seawall could be installed.

Discussion ensued regarding violations. Mr. Agnew spoke to the process for addressing violations which would include options for abatement within the notice of violation. The subcommittee voiced their concerns with adjacent property owner notices and the appeal process.

Members requested to include a disclaimer for "not appropriate in all situations" and "require City, State, and Federal permits".

They further inquired as to notice to adjacent property owners. Attorney Agnew

spoke to the option for adding conditions for public notice and the appeal process. He further spoke to providing notification to properties in violation and see if they would like to participate in these discussions. Discussion ensued regarding Staff notifying the public of the discussions. Ms. McMichael spoke to the next steps.

Discussion ensued regarding properties on West Gulf Drive planting non-native vegetation and there being no enforcement measures available. Discussion continued regarding working with Natural Resources to reword sections of the code regarding vegetation and coastal systems. Finally, discussion ensued regarding including a time constraint for looking into remediation prior to sending it to code enforcement.

**Subcommittee Member Welch moved, seconded by Subcommittee Member Sergeant, to forward to Planning Commission with revisions as discussed. The motion carried.**

## **7. Public Comment**

There were no comments from the audience.

## **8. Adjournment**

There being no further business, the meeting adjourned at 1:42 p.m.