

CITY OF SANIBEL
DRAFT PLANNING COMMISSION RESOLUTION 23-26

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANIBEL; RELATING TO A VARIANCE (APPLICATION NO. VAR-2024-000230) RELATIVE TO SECTIONS 126-454(g) AND (h) OF THE LAND DEVELOPMENT CODE TO ALLOW FOR AN 84.5 SQUARE FOOT INCREASE IN MAXIMUM ALLOWED IMPERMEABLE COVERAGE AND A 27 SQUARE FOOT INCREASE IN THE MAXIMUM ALLOWED VEGETATION REMOVAL AND DEVELOPED AREA, RESPECTIVELY, ON PROPERTY OWNED BY ROBERT E. AND PAULA L. HULT AND LOCATED AT 690 BIRDIE VIEW POINT, TAX PARCEL NO. 30-46-23-T1-0020B.0040, 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 82-141 and 82-142 of the Land Development Code provides that the Planning Commission may grant variances from the requirements; and Sections 126-454(g) and (h) regulates allowable impermeable coverage, and allowable vegetation removal and developed area, respectively; and

WHEREAS, Robert E. and Paula L. Hult, owners of the property located at 690 Birdie View Point, has authorized Windward Construction to submit Application No. VAR-2024-000230 to allow for an 84.5 square foot increase in maximum allowed impermeable coverage and a 27 square foot increase in the maximum allowed vegetation removal and developed area; and

WHEREAS, the applicant has requested approval of Application No. VAR-2024-000230 for the property located at 690 Birdie View Point; and

WHEREAS, a duly noticed public hearing of the application was held on July 9, 2024; 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 meets / does not meet the seven variance criteria required by LDC Section 82-140 and 82-141.

NOW, THEREFORE, BE IT RESOLVED, THE PLANNING COMMISSION OF THE CITY OF SANIBEL HEREBY:

SECTION 1. APPROVES / DENIES Variance Application VAR-2024-000230 to allow for an 84.5 square foot increase in maximum allowed impermeable coverage and a 27 square foot increase in the maximum allowed vegetation removal and developed area, owned by Robert E. and Paula L. Hult, located at 690 Birdie View Point (tax parcel No. 30-46-23-T1-0020B.0040).

SECTION 2. (if approved) Approves this Variance Petition pursuant to the application and attachments included with the item, and subject to the following condition(s) contained in the July 27, 2024, staff report:

1. A declaration must be recorded in the official records of Lee County stating the property is overdeveloped exceeding the maximum allowed impermeable surface by 84.5 square feet and the maximum allowed developed area by 27 square feet, therefore, no additional development can be permitted including, but not limited to, the addition of stepping stones,

rock, shell, pavers, mulch areas without vegetation, a generator mounted on a pad or elevated frame, and conversion of the sod in the driveway to pervious pavers.

2. The approval of this variance shall not be used as the basis for any future nonconformity or code violation on the subject property.

SECTION 2. (if denied) Denies this Variance Petition pursuant to failure to meet the following criteria required by LDC Section 82-140 and 82-141:

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 12TH 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	_____