



City of Sanibel

800 Dunlop Road
Sanibel, FL 33957

Meeting Minutes - Draft Planning Commission

Tuesday, April 8, 2025

9:00 AM

BIG ARTS - 900 Dunlop Road

1. Call To Order

The meeting convened at 9:02 a.m.

2. Pledge of Allegiance (Commissioner Burns)

Commissioner Burns led the Pledge of Allegiance.

3. Roll Call

Present: 7 - Chair Paul Nichols, Vice Chair Erika Steiner, Commissioner Tiffany Burns, Commissioner Ken Colter, Commissioner Larry Schopp, Commissioner Kate Sergeant, and Commissioner Lyman Welch

4. Public Comments on Items Not Appearing on the Agenda

There were no comments from the audience.

5. City Council Liaison Report (Councilmember Johnson)

Councilmember Johnson provided the following report:

- Thanked the Commission for their hard work and service.
- Noted Mayor Miller, Vice Mayor Smith, and City Manager Souza were in Tallahassee
- Received report on the annual financial audit, noting compliance with reporting standards
- Presentation by Doug Congress and Eric Pfeifer regarding recovery efforts monitoring website
- Second reading on ordinance for dangerous and distressed properties
- Discussion on ordinance for fill, conditional uses, and height limitation exception; moved all to first reading on April 17th at the special meeting which was scheduled
- Bringing back plan for remodel and updating of MacKenzie Hall in an effort to return meetings to city hall.
- Boat Ramp repairs update
- Appropriated \$50,000 funds for marketing the island; for visitors, residents, and businesses.
- Strategic Goals discussion - added recovery and resilience goals

Commission inquired if an ombudsman position would be considered in the upcoming

budget. Mr. Johnson noted further discussion would be held considering the position. Commission thanked Mr. Johnson for his service and commended staff on the public hearing regarding the distressed properties ordinance. Commission further expressed appreciation for Council scheduling the special meeting to expedite the ordinance review and adoption process.

6. Consent Agenda

- a. Adoption of Minutes: March 25, 2025

Commissioner Welch moved, seconded by Commissioner Colter, to adopt the March 25, 2025 minutes. The motion carried.

7. 9:05 - Public Hearings:

- a. Appeal of the floodplain administrator's interpretation of Chapter 94, Floodplain Management Ordinance, to the Planning Commission, alleging an error in a determination made by the floodplain administrator as it relates to the issuance of a building permit, BLDR-2024-017801, for new construction of a single-family home at 1305 Seaspray Lane, STRAP tax parcel no. 19-46-22-T1-00300.0180. The subject application was submitted by American Gallery of Homes of Sanibel, Inc. on behalf of the property owner, William & Sunyoung P Covaleski.

Deputy Planning Director Craig Chandler read into record the description of the hearing.

City Clerk Scotty Lynn Kelly polled the Commission for site visits, ex-parte communications, and conflict:

- Chair Nichols	Site Visit	No Ex-parte	No Conflict
- Vice Chair Steiner	Site Visit	Ex-parte	No Conflict
- Commissioner Burns	Site Visit	No Ex-parte	No Conflict
- Commissioner Colter	Site Visit		Conflict
- Commissioner Schopp	Site Visit	No Ex-parte	No Conflict
- Commissioner Sergeant	Site Visit	No Ex-parte	No Conflict
- Commissioner Welch	Site Visit	Ex-parte	No Conflict

Vice Chair Steiner spoke to having had ex-parte communications with Arlene Dillon regarding the development of the parcel at 1305 Sea Spray and concerns with the impact on water management. Ms. Steiner provided the ex-parte communications form to Clerk Kelly.

Commissioner Colter read into record his Conflict of Interest Form 8B advising his conflict is due to being the principal contractor on the project. Mr. Colter provided Form 8B to Clerk Kelly, recused himself from the hearing, and stepped away from the dais at 9:27 a.m.

Commissioner Sergeant advised she had spoken with Ms. Dillon prior to the appeal being submitted and not having any ex-parte communications following the appeal submission.

Commissioner Welch read into record his ex-parte communications with Arlene Dillon and a neighbor of 1305 Seaspray regarding the construction of the home. Mr. Welch provided the ex-parte forms to Clerk Kelly.

City Clerk Scotty Lynn Kelly swore in the following:

- Craig Chandler - City of Sanibel, Deputy Planning Director
- Jessica McNulty - City of Sanibel, Acting Deputy Building Official
- Craig Mole - City of Sanibel, Building Official
- Rhonda Henning - American Gallery Homes of Sanibel, Inc.
- Bill Covalesski - Property Owner - 1305 Seaspray Lane
- Oisin Dolley - City of Sanibel, Engineer
- Jeff Wolski - 1381 Jamaica Drive
- Jonathan Walters - American Gallery Homes of Sanibel, Inc.
- Dan Wexler - 1371 Jamaica Drive
- Arlene Dillon - 1371 Jamaica Drive

Attorney Agnew spoke to the process for the hearing, advising the appellant Arlene Dillion would begin the testimony portion and that each side would have up to 30 minutes to present.

Ms. Dillon provided a PowerPoint presentation (to be added to the record) and spoke to the background for the appeal.

Jessica McNulty, Acting Deputy Building Official and Floodplain Manager, spoke on behalf of the City of Sanibel, summarizing the response of the City. City Attorney Agnew clarified the City's perspective on the appeal.

Commissioners spoke to the neighbors' concerns with the water management of the property being developed and inquired if there was a more appropriate section of code for the appeal. Mr. Agnew advised that the charge of the commission is to make a decision based on the existing law, noting that discussions could be held in the future to amend the code as needed resulting from the appeal.

Ms. Dillon spoke to the lack of an appeal process, noting the reasoning for using Chapter 94. Reiterating the request for further information to be collected regarding the develop able area of the lot. Building Official Craig Mole spoke to certain waterbodies/water courses being labeled on the floodplain maps; noting this property is in compliance with floodplain regulations. Discussion ensued regarding the new drainage plans being in compliance with the updated codes relating to open bodies of

water.

Commissioners inquired as to the survey being out of date and if the Floodplain Administrator considered the date of the survey during the review process. Ms. McNulty, advised the contracted employee was not available for testimony, noting that the structural building was being reviewed not the date of the survey. Mr. Mole noted the revised date was less than 6-months old when the building and structural review was performed.

Commission further spoke to the alleged differences in the square footage to which Mr. Mole advised that was not part of the Floodplain Administrators review. Mr. Mole clarified that the review is to determine the structure is compliant with floodplain regulations. Mr. Chandler advised the parcel is in the upland/wetland zone, though it is not zoned a wetland property.

Discussion ensued regarding there not being an appeal process for an administratively approved permit. Further discussion ensued regarding Chapter 94 not being a productive avenue for the appeal, and the validity of requesting an environmental review. Mr. Chandler advised the permit was already approved and there not being a need/opportunity for an environmental assessment study. Commission inquired about what authority the Commission has. Attorney Agnew advised that the hearing would be operated under the current code, noting the Commission does not have the authority to request the environmental assessment review. Mr. Agnew advised that the permit is not the item that is being considered and cannot be repealed or invalidated.

Discussion ensued regarding if the permit could be remanded back to the City for further consideration. Attorney Agnew spoke to the hearing and appeal processes. Discussion ensued regarding the written appeal which was responded to by Staff and that the presentation provided today had not been submitted for response by the City. Commissioners inquired if there were an avenue to consider the open body of water issues in an appeal. Mr. Agnew spoke to Chapter 94, which was referenced in the appeal, being related to compliance with FEMA regulations for flood management.

Discussion ensued regarding options being to repeal, uphold, or remand, a problem in the code being that there is no appeal process, and the need to update the code for appeals in the future. Continued discussion ensued regarding water courses, wetlands, and concerns that the process could be overly burdensome to property owners wishing to build.

Ms. Dillon spoke to sending in the appeal as an original request and renewing the appeal as a response to the letter received from City Manager Dana Souza.

Public Comment:

City Clerk Kelly swore in Karen Volmer - Blind Pass Court - who inquired about the review process and if the Building Department Staff had to do a site visit during the review process. She further inquired about process and approval if an Home Owners Association (HOA) drainage plan is required. City Engineer Oisin Dolley responded that the easements were not a requirement for approval and were an additional water management opportunity.

Public Comment:

- Jonathan Walters - American Gallery Homes of Sanibel, Inc., spoke to the permitting process, advising a permit was approved and the construction is being held up at the property owner's detriment.
- Dan Wexler - 1371 Jamaica Drive - spoke to concerns with allowing a home to be built with no real drainage plan provided, and concerns with ensuring property rights of the adjacent parcels are not being violated.
- Jeff Wolski - 1381 Jamaica Drive - requested the drainage plans be reviewed to ensure the water is going where intended.
- City Clerk Kelly swore in Linda Wolski - 1381 Jamaica Drive - who spoke to flooding issues due to being the oldest construction in the neighborhood and having a lower elevation than the other parcels.
- Bill Covalski - 1305 Sea Spray Lane - introduced himself as the property owner being delayed, thanked the Commission for their consideration, and requesting the issued permit be upheld.
- City Clerk Kelly swore in Julia Schmitt who spoke to understanding that the drainage plan demonstrates water will be retained on site.

Mr. Dolley addressed concerns with the storm water plan and spoke to the drainage plan provided in the application process. Jessica McNulty clarified information relating to Chapter 94, Section 71 and spoke to the review and approval process.

Public Comment:

- Rhonda Henning - American Gallery Homes of Sanibel, Inc. - spoke to the application and design process from the builders perspective

Ms. Dillon spoke to the appeal being an effort to protect the properties and requested the permit be remanded back for further information.

Commission inquired if there were additional South Florida Water Management District (SFWMD) permitting requirements. Mr. Dolley advised there were not. Ms. McNulty advised that the revised plan had been reviewed and she had visited the site after receiving the appeal but prior to this hearing.

Commission inquired if code enforcement were a better vehicle than the appeal

process and if the City is bound by the Bert Harris Act. Attorney Agnew confirmed that the Bert Harris Act does apply.

Commissioner Schopp to his reasoning for recommending upholding the approved permit. Vice Chair Steiner spoke to her reasoning for planning to vote against the motion.

Public Comment:

- Dan Wexler - advised he was not sure where expert testimony could be found other than personal observations over the years of living next to the property.

Commissioner Schopp moved, seconded by Chair Nichols, to adopt Resolution 25-07 to uphold the Floodplain Administrators decision relating to application BLDR-2024-017801. The motion failed due to lack of a majority vote with Commissioner Colter recused and Commissioners Steiner, Sergeant and Welch opposed.

Opposed: 3 - Vice Chair Erika Steiner, Commissioner Kate Sergeant, and Commissioner Lyman Welch

Recused: 1 - Commissioner Ken Colter

Discussion ensued regarding the options following the failed motion to uphold and what remanding would consist of. Attorney Agnew advised remanding would send it back to the Floodplain Administrator for further consideration, noting it would not necessarily come back to the Planning Commission.

Further discussion ensued regarding the process for remanding, including the fact that the hearing would be closed, allowing opportunity for another appeal depending on the Floodplain Administrators conclusion.

Vice Chair Steiner moved, seconded by Commissioner Welch, remanding back to the Floodplain Administrator Section 94-71 (1, 3, and 4), with a report back to Planning Commission, closing the public hearing, and bringing the resolution back for further consideration. The motion carried by a vote of 6-0, with Commissioner Colter recused.

Recused: 1 - Commissioner Ken Colter

The meeting recessed at 12:13 p.m. and reconvened at 12:28 p.m.

- b.** Consideration of an application filed pursuant to Land Development Code Chapter 82, Article III, Division 3, Subdivision II. - Variances, Section 82-138. - Application and hearing, to request a variance from Section 126-454. - Required Conditions, subsection (b) to allow for elevating an existing nonconforming single-family residence located at 1495 Angel Drive - tax parcel (STRAP) no. 18-46-23-T1-0010B.0260. The application is submitted by Ron Decorte, DeCorte Four Custom Home Builders, Inc., on behalf of Donald and Margaret Feiner, the property owner. **Application No. VAR-2025-000258.**

Deputy Planning Director Craig Chandler read into record the description of the hearing for Applicant VAR-2025-000258.

City Clerk Scotty Lynn Kelly polled the Commission for site visits, ex-parte

communications, and conflict:

- Chair Nichols	Site Visit	No Ex-parte	No Conflict
- Vice Chair Steiner	Site Visit	No Ex-parte	No Conflict
- Commissioner Burns	Site Visit	No Ex-parte	No Conflict
- Commissioner Colter	Was absent at time of polling		
- Commissioner Schopp	Site Visit	No Ex-parte	No Conflict
- Commissioner Sergeant	Site Visit	No Ex-parte	No Conflict
- Commissioner Welch	Site Visit	Ex-parte	No Conflict

Commissioner Welch read into record his ex-parte communications regarding speaking with a neighbor who was in support of the application, and provided the forms to Clerk Kelly.

City Clerk Scotty Lynn Kelly swore in the following:

- Savannah White - City of Sanibel, Senior Planner
- Jason Maughan - Attorney for the Applicant
- Ron DeCort - Applicant
- Craig Chandler - City of Sanibel, Deputy Planning Director

Senior Planner Savannah White provided a brief PowerPoint presentation and summarized the staff memorandum included in the agenda packet.

Attorney Jason Maughan concurred with the Staff presentation and recommendations. Commission inquired if the building height legislation currently being reviewed would have negated the need for a variance. Mr. Chandler confirmed that to be true.

Commission inquired what could be done by the applicant to ensure standard 3 was met and if waiting until the current legislation were adopted in May would eliminate the need for a variance. Ms. White advised that the hardship was due to the property being a grandfathered non-conforming structure, not self imposed. Attorney Maughan spoke to the variance being to improve recovery and resilience efforts.

Discussion ensued regarding many of the neighboring properties being in similar height and look. Ms. White advised two public comments were included in the agenda packet. Discussion ensued regarding the front and rear staircases. Ms. White spoke to the regulations for ingress/egress. Mr. Chandler advised a specific condition would not be needed relative to ingress/egress.

Commission inquired as to the reasoning for the 10 foot 3 inch height request. Mr. Maughan advised the plans were prepared prior to the application process in an effort to ensure protection of the home.

Commissioner Welch moved, seconded by Chair Nichols, to adopt Resolution 25-05, approving application VAR-2025-000258 with the three conditions listed in the staff report, to close the public hearing in this matter, and to authorize the chair to execute the Resolution without

bringing back for further consideration. The motion carried by a vote of 5-1 with Commissioner Schopp opposed and Commissioner Colter absent.

Opposed: 1 - Commissioner Larry Schopp

Absent: 1 - Commissioner Ken Colter

- c. Consideration of applications filed pursuant to Land Development Code Chapter 82, Article III, Division 3, Subdivision V. - Conditional Uses, Section 82-204. - Application and hearing, to request increased density for below market rate housing; and Subdivision II. - Variances, Section 82-138. - Application and hearing, to request variances from Section 86-163. - Maximum number of dwelling units, Section 86-165. - Limitation on side yard setbacks and height of structures, Section 126-494. - Required conditions (side and rear yard setbacks), and Section 126-1404. - Driveways and service aisles (width) to allow for redevelopment of multi-family housing (15 units) dedicated to the Below Market Rate Housing Rental Program located at 1517 Periwinkle Way - tax parcel (STRAP) no. 30-46-23-T1-00004.0080. The application is submitted by Rachel Bielert (RLBCM, LLC) on behalf of Community Housing & Resources, Inc., the property owner. **Applications No. CUP-2025-000255 and VAR-2025-000256.**

Deputy Planning Director Craig Chandler read into record the description of the hearing for Applications CUP-2025-000255 and VAR-2025-000258.

City Clerk Scotty Lynn Kelly polled the Commission for site visits, ex-parte communications, and conflict:

- Chair Nichols	Site Visit	No Ex-parte	No Conflict
- Vice Chair Steiner	Site Visit	Ex-parte	No Conflict
- Commissioner Burns	Site Visit	No Ex-parte	No Conflict
- Commissioner Colter	Was absent at time of polling		
- Commissioner Schopp	Site Visit	No Ex-parte	No Conflict
- Commissioner Sergeant	Site Visit	No Ex-parte	No Conflict
- Commissioner Welch	Site Visit	No Ex-parte	No Conflict

Vice Chair Steiner spoke to being the Vice President of the Community Housing and Resources, Inc (CHR) Board, noting no discussions of the specifics for the application or variances were held, and provided the ex-parte communications form to Clerk Kelly.

City Clerk Scotty Lynn Kelly swore in the following:

- Craig Chandler - City of Sanibel, Deputy Planning Director
- Rachel Bielert - on behalf of the Applicant
- Nicole McHale - Executive Director of CHR, Applicant

Deputy Planning Director Craig Chandler provided a brief PowerPoint presentation and summarized the staff memorandum included in the agenda packet. Mr. Chandler advised the variances would come back at the next meeting for consideration, noting today's object was to consider only the conditional use permit application.

Discussion ensued regarding the direction to forward to Council for consideration though the wording of the resolution would need to be revised for approval. Attorney Agnew spoke to the process for administratively correcting the resolution.

Mr. Agnew spoke to the possibility of bias due to Ms. Steiner being on the CHR Board. Ms. Steiner advised she would be biased in favor and abstained from participating in the discussion and vote.

Commission inquired if the applicant accepted the proposed conditions. Ms. Bielert confirmed acceptance and spoke to one of the conditions coming from communications with Representatives from 7-11. Mr. Chandler spoke to the recommendation being in reference to one of the variances that will be considered at the next meeting. Ms. Bielert spoke to that condition being a condition for receiving the certificate of occupancy and that the agreement would be recorded with the County.

Discussion ensued regarding Americans with Disabilities Act (ADA) compliance and resiliency efforts included in the design.

Commissioner Schopp stepped out of the meeting at 1:37 p.m. and returned at 1:40 p.m.

Discussion ensued regarding The Fish House Representatives being in support of the application. Ms. Bielert confirmed and spoke to communications with them to create a contract for use of the parking lot for contractors and accessing the driveway to ensure access for emergency services.

Commission inquired as to the location of the air conditioner units. Mr. Chandler advised that overall height was an issue throughout the review process so the units were being placed next to the units.

Mr. Chandler spoke to four of the six variance requests, advising the other two variance requests would be considered at the next meeting.

Chair Nichols stepped out of the meeting at 1:49 p.m. and returned at 1:51 p.m.

Ms. Bielert expressed her appreciation for the responsiveness of all involved with the application process.

Commissioner Welch moved, seconded by Vice Chair Steiner, to approve resolution 25-06 recommending City Council approve application CUP-2025-000255, with the three conditions listed in the staff report, to close the public hearing in this matter, and to authorize the chair to execute the Resolution without bringing back for further consideration. The motion carried by a vote of 5-0 with Vice Chair Steiner abstaining and Commissioner Colter absent.

Absent: 1 - Commissioner Ken Colter

Abstain: 1 - Vice Chair Erika Steiner

8. Report from Planning Department

a. Upcoming meeting dates:

- i. Planning Commission - Tuesday, April 22, 2025
- ii. Land Development Code- Tuesday, April 22, 2025- Following Planning Commission
- iii. Capital Improvement Projects Review- Tuesday, June 10, 2025- Following Planning Commission
- iv. Report to City Council - Tuesday, May 6, 2025 - Commissioner Colter

Deputy Planning Director Craig Chandler spoke to the upcoming meetings and report to the City Council. Discussion ensued regarding replacing Commissioner Colter for the next Council Liaison report due to his conflict of interest and missing the remainder of the meeting.

b. Planning Reports

- i. Planning Permit Review Report
- ii. Planning Projects
- iii. Plan Application Status Report

No discussion was held regarding the permitting reports.

9. Report from Commission Members

Vice Chair Steiner spoke to the need to create a process for concerns from neighbors relating to permits in review by Staff to be addressed and discussing the item at a Land Development Code (LDC) Review Subcommittee meeting. Discussion ensued regarding whether Council direction was needed before taking to a subcommittee and the notification processes for permit applications. Mr. Chandler spoke to the process for sending out notifications during the application period related to proposed construction projects.

Continued discussion ensued regarding where the topic would fall in the priorities list and whether Council direction was required prior to consideration by Commission or subcommittee.

Discussion turned to what is on the agenda for the April 22 LDC meeting.

10. Public Comment

There were no public comments from the audience.

11. Adjournment

There being no further business, the meeting adjourned at 2:15 p.m.