



City of Sanibel

Planning Commission

PLANNING DEPARTMENT Staff Report

Planning Commission Meeting: November 19, 2024
Planning Commission Agenda Item: 7a.
Application Number: CUP-2024-000242
Applicant: Williamson and Sons Marine Contracting, Inc.

RE: Consideration of an application filed pursuant to Land Development Code Chapter 82, Article III, Division 3, Subdivision V. – Conditional Uses, Section 82-204. – Application and hearing to obtain a **conditional use permit** to place a vinyl seawall waterward of an existing concrete seawall at **1209 Isabel Drive** – tax parcel (STRAP) no. 18-46-23-T3-00300.022B. The application is submitted by Williamson and Sons Marine Construction, Inc., the applicant, on behalf of Alan Erp, the property owner. **Application No. CUP-2024-000242.**

ISSUES

Pursuant to Land Development Code (LDC) Section 82-202. – Requirements and Section 82-203 – Conditions, the subject application has been referred to the Planning Commission to address the following issues:

1. Does the proposed development comply with the general requirements of a conditional use provided in Land Development Code Section 126-82 – general requirements?
2. Does the proposed development comply with the specific requirements of seawall waterward of existing seawall use provided in LDC Sec. 126-106 – Seawall as accessory structure waterward of existing seawall?
3. If the Planning Commission approves the application, what additional conditions should be required?

ATTACHMENTS

A	Applicant’s narrative response to general requirements (Sec. 126-82) and specific requirements (Sec. 126-106)
B	Survey

C	Site Plan
D	Engineering Plans
E	Environmental Enhancement Plan
F	Natural Resources Department Memorandum dated November 12, 2024

BACKGROUND

The subject property at 1209 Isabel Drive is approximately 0.3-acres in size and located in the G – Altered Lands ecological zone. The property was developed with a single-family residence in 1987.

The subject parcel is located within the Sanibel Harbours established neighborhood, which is developed exclusively as single-family residences. The parcel is abutted by a public canal to the south; across from the canal are single-family homes.

There is no long-form permit history specific to marine accessory structures at the subject property. A variance was approved in 1988 for a swimming pool to encroach within the minimum setback from open body of water.

PROPOSAL

The applicant is proposing installation of a vinyl seawall in front of an existing concrete seawall with a new concrete seawall cap. The new seawall face is proposed 12” in front of the existing seawall face. The new seawall panel and cap will be secured by tiebacks and deadman/anchors. The existing seawall return at either end of the property is proposed to be modified to tie in with the new seawall, and a turbidity and erosion control plan is described on the Engineering Plans for the protection of water quality during the construction period.

A copy of the Site Plan is provided with this report as **Attachment C** and a copy of the Engineering Plans is provided as **Attachment D**. A proposed environmental enhancement plan to comply with Section 126-101(20) is included as **Attachment E**.

ANALYSIS

Staff finds the subject application complies with general requirements of Section 126-82 for conditional uses, as it relates to no adverse impacts and external compatibility of the proposed improvements.

Staff also reviewed proposed plans for compliance with specific requirements for this type of conditional use per Section 126-106 and applicable provisions of Section 126-101. The table below summarizes staff finds relative to each standard.

Section 126-106	Review Status	Notes
(1) The seawall shall be in a human made canal, only within the following locations: ... b. Sanibel Harbours Subdivision; ...	Compliant	Located in Sanibel Harbours Subdivision
(2) There is not an old seawall landward of the existing seawall.	Compliant	
(3) The property line of the parcel shall not be moved waterward.	Compliant	
(4) The design of the seawall shall not adversely impact adjacent properties.	Compliant	
(5) The design of the seawall shall not adversely impact native vegetation.	Compliant	See the memo from Natural Resources.
(6) The design of the seawall shall not adversely impact native wildlife.	Compliant	See the memo from Natural Resources.
(7) The design of the seawall shall not adversely impact marine resources.	Compliant	See the memo from Natural Resources.
(8) The waterward extension of the seawall shall not create a nonconforming marine accessory structure on the property or properties across the canal from the subject property...	Compliant	The applicant states all pilings, including mooring pilings will remain in place. Therefore, there is no proposed increase to waterward extension. Dock reconstruction will require a development permit and walkway width must be maintained no less than 3 feet wide.

Section 126-106	Review Status	Notes
(9) The waterward extension of the seawall shall not adversely impact the adjacent property owners' access to the canal or their marine accessory structures.	Complaint	
(10) The new seawall shall not extend any further than 12-inches as measured from the existing seawall face to the waterward most face of the proposed seawall. Any void between the existing seawall and new seawall must be filled with appropriate material to allow for relief of hydrostatic pressure.	Compliant	Proposed seawall is 12" from face-to-face.
(11) Seawall standards (9) through (20) in section 126-101 shall be met.	See below	
<i>Applicable sections of 126-101</i>		
<i>(9) A seawall shall be constructed in a manner to prevent it from being overtopped and the land behind the structure being eroded under seasonal tidal fluctuations. The top of the seawall cap for properties where no seawall currently exists is limited to a height no more than 4.5 feet NAVD. On properties where there is an existing seawall and a seawall cap repair, seawall replacement, or new seawall waterward of an existing seawall is proposed the new seawall cap is limited to a height no more than 4.5 feet NAVD.</i>	Compliant	Seawall cap proposed height is +4.5' NAVD.
<i>(10) Weep holes must be regularly spaced above the mean high-water line of the seawall to relieve the buildup of pressure on the wall from groundwater and rain percolating through the soil.</i>	Compliant	
<i>(11) The seawall must be made of materials strong enough to withstand anticipated battering by waves and wave-carried debris. Seawalls in the limited areas where seawalls are a permitted use shall be made of concrete, fiber reinforced polymer composite, rock, or polyvinyl chloride (PVC). Color of composite or polyvinyl chloride panels is limited to light grey to</i>	Required condition	Applicant proposes Vanguard Heavy Duty vinyl seawall panels and a concrete seawall cap with a steel reinforcement. See note #26 on the Engineering Plans - The seawall panel is proposed to be light grey in color.

Section 126-106	Review Status	Notes
<i>be substantially similar in coloration to concrete. The only rock which may be used is Florida limerock.</i>		
<i>(12) Polyfilter "X" cloth, or equivalent, shall be installed along the back of the seawall between the wall and the uplands when a void is present between seawall panels, to prevent soil from seeping into the adjacent waterway.</i>	Compliant	See note #21 of the Engineering Plans - The applicant proposes filling void space between panels with polyfilter "X" cloth.
<i>(13) The seawall shall be installed with sufficient tiebacks and anchors to help prevent it from tipping over. Tieback rods shall be protected against corrosion.</i>	Compliant	Tiebacks are proposed every 10 feet. See note #5 of Engineering Plans: Tiebacks to be grade 60, epoxy coated, & PVC sleeved.
<i>(14) The toe of the seawall shall have adequate penetration into the ground (a minimum of 40 percent of the height of the seawall) to develop the resistance necessary to keep the outward-acting forces of the fill behind the wall from forcing the bottom of the wall outward into the canal.</i>	Compliant	40% of the seawall panel proposed in-ground penetration.
<i>(15) There shall be adequate embedment of the wall into the cap (a minimum of one-half the thickness of the cap) to prevent the wall and cap from rotating in different directions.</i>	Compliant	The wall is proposed to be embedded 5" into a 10" cap (1 half thickness of the cap).
<i>(16) The seawall shall be tied into the adjoining seawall or well anchored to the shore with wingwalls or returns to resist flank erosion.</i>	Compliant	Existing returns will be modified to tie in with the new seawall face.
<i>(17) When reinforcing steel is utilized in the wall and/or cap, current industry standards must be incorporated into the design to prevent corrosion and spalling which would reduce the strength of the wall.</i>	Compliant	The applicant proposes steel reinforcement of the seawall cap consistent with industry standards.
<i>(18) A turbidity and erosion control plan must be included in the design documents. Turbidity screening shall be employed prior to construction and remain in place a minimum of 24 hours after completion of construction to ensure protection of water quality in the area. Erosion control measures must be installed landward</i>	Compliant	See note 15 on the Engineering Plans.

Section 126-106	Review Status	Notes
<i>of the seawall upon completion of construction and remain in place until the upland area disturbed during construction is stabilized with vegetation.</i>		
<i>(19) Structural plans must be prepared by a professional engineer with experience in designing marine structures and licensed in the State of Florida to certify the seawall has been designed in conformance with these standards and site-specific conditions prior to issuance of a development permit. An as-built certification by the designing engineer that the seawall was built in conformance with the approved structural plans must be submitted prior to issuance of a certificate of completion.</i>	Compliant	
<i>(20) a. When the design of a replacement seawall or replacement seawall cap is at an elevation greater than the elevation of the existing structure, and when a new seawall is proposed, then the design must include a stormwater detention area landward and adjacent to the seawall to prevent runoff from rainfall and irrigation systems to directly enter the waterway. Examples of methods to detain runoff from direct discharge into the canal include, but are not limited to: (1) installation of a French drain adjacent to the seawall which is composed of crushed rock to encourage infiltration; (2) back sloping the fill; and (3) reducing the fill behind the new seawall cap, new seawall or replacement seawall to be three or more inches below the height of the seawall cap with a level surface for three or more feet in width (refer to illustrations below); and b. A ten-foot wide native groundcover planting area directly adjacent to and along the length of the seawall except for a maximum five-foot wide accessway to a dock. Native groundcover plants to be a minimum one-gallon container size planted on three-foot center; soil must be stabilized with a</i>	Compliant	See the memo from Natural Resources.

Section 126-106	Review Status	Notes
<p><i>natural fiber filter cloth or native seashore paspalum sod at time of planting.</i></p> <p><i>c. The stormwater detention area and ten-foot wide native groundcover planting area will not be counted toward the developed area limit.</i></p>		
<p>(12) Existing docks, boat lifts, and mooring pilings must not be relocated further waterward except when those accessory marine structures can be relocated in full compliance with... maximum waterward extension measured from the face of the original seawall.</p>	Compliant	See site plan – The applicant states mooring pilings are not proposed to be relocated. Instead the existing dock will be reconstructed which reduces dock width by 1 foot but maintains the 3-foot minimum width standard.
<p>(13) If the new seawall extends further than the property owner’s existing property line, the owner must procure from the owner(s) on whose land the new seawall extends an easement in a form acceptable to the city, identifying the limits of the new seawall, existing seawall, and subject property boundary, and such easement must be recorded in the public record of the Lee County Clerk of Courts.</p>	Required condition	
<p>(14) As-built survey including the location of the existing seawall, new seawall, property boundary, any marine accessory structures, delineation of the maximum waterward extension based upon measurement from the original seawall, and elevation of seawall cap must be submitted to the city upon completion of the seawall construction.</p>	Required condition	

...

City of Sanibel Natural Resources Department reviewed the application, as well as the Environmental Enhancement Plan (**Attachment E**), and performed a site inspection to assess compliance, making the following findings and recommendations:

- *Section 126-106(5): The design of the seawall shall not adversely impact native vegetation.*
 - Two native plants (both wild olive) exist within the footprint of impact. However, the amount and type of native vegetation to be impacted would not be deemed an adverse impact. The applicant has indicated that impacts will be avoided where possible and impacted native plants will either be transplanted or mitigated.
- *Section 126-106(6): The design of the seawall shall not adversely impact native wildlife.*
 - There was no protected wildlife species observed on the parcel at the time of inspection. Natural Resources finds that this project will not adversely impact terrestrial wildlife. However, the project is located within federally designated smalltooth sawfish critical habitat and the applicant must obtain all required state and federal permits.
- *Section 126-106(7): The design of the seawall shall not adversely impact marine resources.*
 - The subject parcel is located on a human made canal. There are no marine resources (i.e. mangroves, seagrasses, oysters, etc.) present in the water adjacent to the existing seawall. Natural Resources finds that this project will not have adverse impacts on marine resources.
- *Section 126-101(20): Environmental Enhancement Plan*
 - A proposed planting plan demonstrates compliance with this requirement.

Natural Resources Department recommends three (3) conditions, which are described in full under Recommendations and Conditions of this staff report. The conditions relate to:

- Mitigation of impacted native vegetation.
- Implementation of the proposed Environmental Enhancement Plan
- Providing a final vegetation plan shall be submitted as a final document for approval by City staff.

A copy of the Natural Resources Department Memorandum, dated November 12, 2024, is provided as **Attachment F**.

PUBLIC COMMENT

Staff has not received any public comment on this item.

RECOMMENDATIONS AND CONDITIONS

Staff has made the following findings in support of its recommendations:

- Staff finds the subject application in compliance with Section 126-82. – General requirements.
- Staff finds the engineered construction plans in compliance with applicable standards of Section 126-101 and Section 126-106 – the specific requirements for this conditional use.

- Staff finds the environmental enhancement plans in compliance with Section 126-101(20).
- Staff recommends conditions relating to code requirements for development permit implementation after obtaining a Conditional Use Permit.

Staff, therefore, recommends approval of application CUP-2024-000242 subject to the following conditions:

1. File a permit application to obtain a development permit as needed to implement the attached/approved plans substantially compliant with all conditions of this resolution.
2. An as-built survey, including the location of the existing seawall, new seawall, property boundary, marine accessory structures, delineation of the maximum waterward extension from the original seawall, and elevation of seawall cap, is required to verify compliance with the approved plans and conditions.
3. Execute an easement agreement with the City of Sanibel that identifies the limits of the new seawall, existing seawall, and subject property boundary, prior to commencement of construction. The easement shall be recorded in the official records of the Lee County Clerk of Courts.
4. Color of the vinyl seawall shall be light grey to match the color of concrete at the seawall cap.
5. File and/or complete an application (DKSL) to alter or reconstruct existing marine accessory structures in compliance with the Land Development Code, as indicated on the proposed site plan.
6. Impacts to native plants, in accordance with the submitted vegetation plan, are authorized within the footprint of development. Plants shall be transplanted on-site or mitigated 1:1 with a size and species that is proportional to the vegetation destroyed.
7. A 10-foot-wide native plant buffer shall be installed along the entire length of the seawall in accordance with Section 126-101(20).
8. A final vegetation plan shall be submitted as a final document for approval by city staff. The plan must detail the quantity, gallon size, and species of native plants to be installed in the 10-foot-wide native plant buffer. The plan shall also identify the receptor area for the transplanted species and/or provide details on the mitigation plants (quantity, species, and gallon size).
9. Exotic species of plants which out compete or otherwise displace native plants, including Brazilian pepper *Schinus terebinthifolius*, the Cajeput or Punk tree *Melaleuca quinquenervia*, Earleaf Acacia *Acacia auriculiformis*, Lead tree *Leucaena leucocephala*, Java Plum *Syzygium cumini*, Air Potato *Dioscorea bulbifera*, Exotic Inkberry *Scaevola frutescens*, *Scaevola sericea* and Mother-in-law's Tongue/Bowstring Hemp *Sansevieria hyacinthoides* shall be removed from within the boundaries of the subject parcel. The parcel shall be kept permanently free of such exotics.
10. This permit shall not relieve the applicant from the requirement of obtaining permits from and complying with lawful requirements imposed by the US Army Corps of Engineers, the Florida Department of Environmental Protection and any applicable, local, state and federal law.

11. Many of the conditions contained herein are for information purposes to assist the applicant and are requirements of the Land Development 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.