



AGENDA MEMORANDUM

Planning Department

Planning Commission Meeting Date: April 11, 2023

To: Planning Commission
From: Craig Chandler, Deputy Planning Director
Date: April 5, 2023

CITY COUNCIL INITIATED PROPOSED CONSIDERATION

At their November 1, 2022, meeting, City Council adopted Resolution 22-056 declaring a Zoning in Progress directing the review of the standards in the Land Development Code applicable to Commercial Districts. This crucial period of review seeks to streamline permit processes in anticipation of higher than usual demand for permitting, with consideration of policies and best practices that advance goals and objectives of the Sanibel Plan ahead of an unprecedented and compressed phase of redevelopment.

BACKGROUND

Commercial land use is regulated by several commercial overlay districts depicted on the Commercial Zoning Map of the Future Land Use Map Series. These districts establish permitted and conditional uses for a variety of common commercial activities and unique development regulations beyond those required by ecological zone. Supplementary district regulations standardize commercial development in and outside of the commercial district. This discussion does not include accessory uses in the Resort Housing District.

STANDARDS

Several Land Development Code Sections pertain to development of commercial land uses. The table below summarizes these sections of code.

Code Reference(s)	Description	
Sec. 126-491	Permitted Uses	
Sec. 126-511		
Sec. 126-531		
Sec. 126-492	Conditional Uses	
Sec. 126-512		
Sec. 126-532		
Chapter 126, Article IV.		
Sec. 126-248	Prohibited Uses	
Sec. 126-494	Required Conditions	Max. Floor Area Ratio
		Height
Sec. 126-514		Front Yard Setbacks
		Side and Rear Yard Setbacks
Sec. 126-534		Coverage
		Dev. Area and Veg. Removal

Sanibel is and shall remain a barrier island sanctuary

Chapter 86, Article II	Site Preparation	
Chapter 94	Floods	
Chapter 106	Nonresidential Areas (Permanent Accessory Signs)	Number
		Sign Face Area
		Height
		Type
		Location
		Timing
		Required Copy
		Change of Message
Chapter 118, Article IV	Standards for Stormwater Control	Construction Standards
		Level of Service
Chapter 122, Article II, Division 2	Commercial Landscape Buffers	Planting
		Location and size of buffers
		Types, Varieties and Number of Plants
		Installation Standards
		Maintenance Standards
Chapter 126, Article XIII	Environmental Performance Standards	Parking Area Vegetation
		Hydrology
		Geology
		Vegetation; Use of Sod
Chapter 126, Article XIV	Supplementary District Regulations	Wildlife
		Outdoor Lighting
		Min. Size for Commercial Unit
		Max. Size for a Commercial Retail Unit
		Use within completely enclosed building
		Economic and Traffic Impacts
		Balance of Formula Retail Use
		Max. Size of Commercial Building
		Max. Street Frontage
		Architectural Design
		Site Planning
		Bonus Outdoor Dining
<i>Mixed Use Development*</i>		
Sec. 126-1060	Fences for Commercial Uses	
Chapter 126, Article XV	Off-street Parking and Loading	Required Parking Spaces
		Combined Parking Requirements
		Required Loading Spaces
		Design Standards

		Landscaping
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**Mixed-use development Ordinance 23-010 is pending adoption by City Council.*

QUESTIONS

- I. **Public Input.** What challenges to building repair, redevelopment or build-back have commercial stakeholders expressed to staff?
 - a. Can these challenges be addressed in a manner consistent with the Plan for Commercial Development (Sanibel Plan)?
- II. **Sanibel Plan - Plan for Commercial Development.** Are the goals and objectives of the Plan for Commercial Development and Preservation and Community Design (Sanibel Plan) best advanced or achieved by existing policies and land development codes?
 - a. If not, how can existing policies be improved to meet Plan goals and objectives?
 - b. Which existing policies may be amended to streamline permitting and encourage redevelopment over build-back?

ANALYSIS

I. Public Input:

Since Hurricane Ian, staff has conducted numerous pre-application meetings and informal correspondence (phone calls, emails) to discuss a wide range of permit and zoning related inquiries. Staff also participated in a Zoom meeting with the Chamber of Commerce Government Affairs Committee in March. Staff has taken these opportunities to learn from commercial landowners and business owners about the conditions they are facing in the aftermath of this disaster. Provided below is a summary of the input staff has received to date.

- 1. Existing restaurants are struggling to find new locations due to lack of viable commercially zoned parcels (based on proximity to major intersections, lack of available off-street parking, among other factors). Restaurant owners exploring the financial feasibility of a temporary food truck inquired about allowance of food trucks on a long-term basis.
- 2. Owners of commercial centers and restaurant owners have expressed objections to existing minimum parking standards, which incur additional costs: applications (traffic impact analysis, parking demand study), capital (construction), and operating (maintenance). Off-street parking may be prohibitive of a prospective change of use or conditional use permit application if compliance cannot be achieved.
- 3. Generally, there is concern that existing businesses will struggle to compete with outside (new) businesses, especially “formula” businesses, for opportunities to lease space in the commercial district.
- 4. Preapplication inquiries on smaller commercial properties (less than half an acre) have revealed such parcels face greater challenges to comply with maximum floor area ratio, required setbacks, and limitations to developed area and coverage. In many cases, build-back of nonconforming structures is the only feasible option for landowners to retain highest and best use.

II. Sanibel Plan - Plan for Commercial Development Review

The Plan for Commercial Development includes seventeen (17) provisions on pages 219-221 of the Sanibel Plan. Staff reviewed the Land Development Code in the context of these provisions.

Staff identified the following provisions (in order of priority as assessed by staff) as areas in which the city's existing codes are inadequate or less effective than desired to achieve Goals and Objectives of the Future Land Use Element:

16. Apply development standards to existing conforming and non-conforming, as well as new, commercial development, to assure that the standards will have a desirable long-term effect on commercial development in terms of the community's goals.
17. As part of the City's Redevelopment Planning Work Program for Commercial Districts, include the enhancement of the scenic appearance of these areas. (See Preservation and Community Design Principles and Plan for Scenic Preservation)

There are no goals, objectives or policies guiding site planning standards and required setbacks for commercial and institutional land uses. However, in the City of Sanibel Vision Statement, (Community) Character directs that "Auto-urban" development influences will be avoided.

Current site design standards require the location of parking to be mostly in front of or side of buildings with 100-foot front setbacks from the right-of-way centerline, 80 feet larger than the setback for commercial parking. These standards result in a site design in which vehicular off-street parking is a dominant feature of the design aesthetic and a built environment that distances access to buildings from the Shared Use Path for pedestrians and bicyclists.

Out of 85 commercially zoned properties, at least 54% do not conform with one or more setback requirements (typically the front), based on estimates using GIS measurement tools. Waivers to commercial standards are not available for redevelopment and a variance application is logically infeasible to consider in the context of redevelopment. Therefore, redevelopment of nonconforming structures becomes procedurally burdensome and financially inferior to build-back, especially if reduction to commercial floor area is significant.

The Smart Growth Manual (2009), authored by Andres Duany, Jeff Speck, and Mike Lydon, champions site planning standards that promote walkability, compact building design, and a strong sense of place among a mix of land uses and green space. Smart Growth is a leading doctrine of 21st century Planning, that branches from New Urbanism planning theory and Traditional Neighborhood Concepts.

Adoption of new or revised standards for site planning and required setbacks requires an amendment to the Land Development Code.

6. The limited outlying locations in the Commercial District, at the east and west ends of the Island, should be reserved for commercial uses that serve the surrounding residential areas. Residential uses should be permitted and encouraged in the form of mixed-use development. Residential uses that replace existing commercial uses should be permitted only when the neighborhood will not be significantly negatively impacted by the loss of the commercial uses.

The Land Development Codes fails to achieve the goal of this provision. The areas described by this provision are known as "Santiva" and "Old Town" (East End), and are characterized by smaller parcels, lower residential density (2.2 dwelling units per acre), and numerous lawfully-existing nonconformities. These nonconformities have severely restricted such properties to non-substantial repairs, and, in the wake of Ian, limitations of build-back (Sec. 126-212). In all cases, *redevelopment* would result in the substantial loss of commercial floor area and/or dwelling units, making the option practically infeasible.

In 2006, then-Planning Director Bob Duffy proposed a new zoning classification supported by the provisions of the Plan for Commercial Development: *Neighborhood Commercial District*. The lengthy ordinance 06-022 created many of the standards now found in the Supplementary District Regulations, but ultimately did not create the

proposed neighborhood commercial zoning classification. Other recommendations from the Planning Department were not adopted, including alternate site planning standards for the location of off-street parking.

For example, a mixed-use district may ensure results that are more consistent with the future land use element and plan for these areas than GC – General Commercial District does currently. However, any new zoning classification for these or any other nodes of the commercial district would require a Sanibel Plan amendment.

3. Discourage existing commercial uses that do not conform to the Commercial Zoning Map and the Land Development Code from further expansion. These non-conforming uses should revert to a use permitted in the district in which they are located.

There are six (6) nonconforming commercial uses identified in the 2022 Nonresidential Land Use Inventory. As stated by the Plan, these nonconforming uses should revert to a use permitted in the district in which they are located. In five of the six cases of nonconforming commercial uses, the only viable permitted use is a single-family residence anticipated to represent “market rate” housing. The lone exception is only allowed to redevelop under build-back due to its location seaward of the 1974 Coastal Construction Control Line (CCCL). Since Hurricane Ian, three of those sites have been demolished; now it is appropriate to ask, “does market rate single-family housing achieve goals, objectives and policies of the Future Land Use Element?” and consider any, more suitable, alternatives (for example, neighborhood commercial or mixed-use).

A change in zoning designation would require a Sanibel Plan amendment. Currently, an applicant may seek Planning Commission approval to replace a nonconforming use with a less intense nonconforming use.

4. Left unregulated, the proliferation of retail businesses that do not serve residents can frustrate the City’s desire to retain a unique and diverse service and retail base in the local economy and to provide opportunities for small, local businesses. The Plan for Commercial Development shall ensure that the City’s regulations encourage the continuation of existing businesses and the establishment of new businesses that serve the residential segment of the community. City Council has established and reaffirmed a goal of preserving local businesses and retaining a proper balance between the resident-serving and resort (tourist) segments of the commercial sector of the community.

Retail is a permitted use in all commercial districts, although retail is limited to less than 2,000 square feet per unit unless otherwise permitted by Conditional Use Permit. Formula Retail is also a conditional use – a purposeful decision to serve as a procedural deterrent to such uses. However, the definition of formula retail has many exceptions, narrowing its effect, and the CUP process largely results in simply updating the city’s inventory of formula retail uses. The best achievement of current formula retail standards is that as a conditional use, it requires compliant landscape buffers, which supports scenic preservation and the goals of the Plan for Commercial Development.

Regulations associated with retail have had mixed results; incentives to attract retail in the Town Center Districts have proven to be inadequate, much of the retail on Sanibel primarily serves the resort (tourist) population, and the formula retail standards have never really been put to the test. Alternative regulations on retail and specifically formula retail use, should be explored, if achieving provision #4 is important.

7. Continue to seek alternatives to commercial development on Periwinkle Way by monitoring the feasibility of the incentives contained within the development regulations.
8. Reduce the potential for future commercial development by providing developers with an incentive to develop commercial parcels as residential, providing that the residential development is consistent with

the purpose and objectives of the Sanibel Plan and is consistent and compatible with surrounding land uses and furthers the objectives of the Sanibel Plan.

On Periwinkle Way, there are no commercially zoned properties that are dedicated to residential use. The residential density (mostly 4.0 per acre) of the General Commercial District, which comprises the majority of commercial use on Periwinkle Way, is not sufficiently higher than allowable commercial floor area to produce value that might incentivize an alternative to commercial development.

Notably, the Plan for Development Intensity provides, “To promote further conservation of environmentally sensitive lands by creating incentives to set aside sensitive land from development, such as the transfer of development rights.” A “TDR” receiving district (a commercial district, for example) may facilitate the achievement of multiple goals.

A Transferrable Development Rights program was briefly described by staff in a memorandum dated January 24, 2023, regarding mixed-use development. Staff recommended further review, if directed, to coincide with the next budget cycle, as such a program would require grant funding or public financing.

6. *All commercial uses, including formula retail uses, shall retain the historical and visual character of the commercial sector and the unique and diverse service and retail base in the local economy.*

Any changes to regulations in the commercial district, especially those expected to facilitate commercial redevelopment, should coincide carefully with proactive advocacy for historic preservation of those surviving commercial structures built prior to 1973 (50 years) with a special heritage or architectural value to the Sanibel Community.

Information regarding incentives established by City Council Resolution 92-111 may be distributed to property owners of eligible structures. Perceived or real disincentives of the Land Development Code for historic properties may be reviewed to encourage voluntary nomination of a structure to the Local Historic Registry (for example, eliminate the long-form requirement for variance applications filed pursuant to 94-95 – Historic Buildings).

Eligible structures constructed before 1973 include Tower Gallery (1925), Gene’s Books I (1950), Sanibel Seashells (1951), Schnapper’s (1955), Sanibel Service Station (1956), Bait Box, Seahorse Shops (1957), Sanibel Sea School - back building (1958), Sanibel Fish House (1959), Tarpon Tale Inn (1964), Lazy Flamingo (1967), Kona Kai Motel (1969), and Dairy Queen (1971).

Formerly eligible buildings destroyed by fire or natural disaster in 2022 include Sanibel Square (original building) and Island Cow, George and Wendy’s, and Mad Hatter restaurants.

Not included in the Plan for Commercial Development, but hugely important to commercial land use and zoning decisions are policies for off-street parking and design. The Sanibel Plan Transportation Element provides the following, however:

- *Ultimately the City will look for opportunities to reduce the amount of land area devoted to streets, roads and parking areas for private motor vehicles.* (page 102)
- *The parking strategies of the Sanibel Plan are to ensure the provision of adequate on-site and off-site parking for existing and future land uses, in a manner that promotes transportation goals and objectives of the Sanibel Plan.* (page 110)
- *Continue to provide adequate on-site or off-site parking for the support of existing and future land uses.* (Policy 3.1, page 110)

- The amount of parking, public and private, will not overwhelm the resources of individual sites and land uses and will not overwhelm the human-made and natural resources of the City. (Policy 3.4, page 110)

Reducing minimum parking requirements has near-term advantages that include reduction of redevelopment costs, improvements to stormwater drainage, and opportunities for other site amenities including recreation and open space. Long-term benefits include reducing traffic congestion and improving urban design, housing affordability, air quality, and viability of transportation alternatives.

For instance, the Bike Friendly Communities Survey (completed and submitted by staff earlier this year) asked the following question.

Does your community currently have any of the following policies or ordinances in place related to motor vehicle parking or traffic?

Check all that apply.

- Maximum car parking standards*
- No minimum car parking standards*
- Car parking minimums have been reduced in last 5 years*
- Paid public car parking*
- Shared-parking allowances*
- Congestion charges*
- Engine Anti-Idling law*
- Other*
- None of the above*

Revisions to reduce or eliminate required off-street parking spaces, improve parking design and intra-connectivity standards to encourage shared parking, or establish new bike parking standards requires an amendment to the Land Development Code.

Development of a Plan for Public Parking (in the Town Center Commercial District, for example) would unencumber private commercial properties through the creation of shared parking opportunities within public roadway corridors; support complete streets concepts advocated by the 2009 Shared Use Path Master Plan; and potentially create a sustainable revenue stream in the form of parking fares. Such an undertaking is best considered as a Master Plan with specific direction from City Council, in the context of the 5-year Capital Improvement Plan, funding opportunities, and future budget cycles.

RECOMMENDATION

Staff has identified several items for preparation of a draft amendment to the Land Development Code at the direction of Planning Commission:

- Site Planning standards and front yard setbacks, including the specific requirement under conditional use approval related to the distance of ingress-egress driveways.
- Off-street parking requirements, design standards, bike parking, and intra-connectivity.
- Number of signs at commercial properties with multiple arterial and collector roadway frontages.
- Food trucks.
- Variance procedure for historic buildings.

Staff identified other items to continue in review that would require amendments to the Sanibel Plan and would require direction from City Council:

- Plan amendment to consider a Neighborhood Mixed Use Commercial District.
- Transferrable Development Rights program.