



# City of Sanibel

## Planning Commission

### COMMUNITY SERVICES DEPARTMENT STAFF REPORT

**Planning Commission Meeting:** June 8, 2021  
**Planning Commission Agenda Item No.:** 7 b.  
**Application No.:** 21-12829  
**Applicant:** Ray Fenton / Bailey Center LLP

**RE:** Consideration of a request for **Amendment to the Land Development Code**, filed pursuant to Land Development Code Section 82-476, Filing of application, Section 82-477, Hearing procedure, and in accordance with Section 82-241, Amendments to Land Development Code or zoning district boundaries, to amend development standards of Division 3, Bailey's Shopping Center Property, of Article XVI, Planned Unit Development, in Chapter 126 - Zoning. The proposal is filed at 2477 Periwinkle Way (Bailey's Shopping Center) – tax parcel number 26-46-22-T3-00006.0010, 2431 Periwinkle Way – tax parcel number 26-46-22-T2-00004.0010, and 2500 Island Inn Road – tax parcel number 26-46-22-T4-01031.0010. The subject application is submitted by Ray Fenton (the applicant) on behalf of Baileys Center LLP, Periwinkle Adventures LLP, and Tarpon Bay Road LLC (the property owners). **Application No. 21-12829.**

#### ISSUES

In considering the subject application, the following issues should be addressed:

- Does the proposed amendment encourage the most appropriate use of land and city resources, consistent with the public interest?
- Does the proposed amendment prevent the overcrowding of land and avoid the undue concentration of population?
- Does the proposed amendment adversely affect the character and stability of the present and future land use and development of the community?
- Does the proposed amendment adversely affect orderly growth and development?

- Does the proposed amendment preserve, promote, protect and improve the public health, safety and general welfare of the community?
- Is the proposed amendment consistent with the City Charter?

## **BACKGROUND**

### 2477 Periwinkle Way:

Bailey Shopping Center was originally developed in 1966. The parcel consisted of 34,000 square feet of commercial floor area, including a service station and existing detached restaurant (1957), as well as a 13-room boarding house and a single-family cottage (1958).

In 1981, the property owners obtained a development permit to expand the shopping center to 54,000 square feet. Land uses within the commercial center included restaurant, retail, service, office, grocery, hardware, movie theater, and a service station.

In 1985, Ordinance No. SA-85-01 was adopted to permit 91 square feet of additional floor area (converted from a walkway).

Ordinance No. 93-27 amended Article VI, Planned Unit Development, of the Sanibel Land Development Code, to provide a new part (B) for the Bailey's Shopping Center Property with recognition that the City deems it necessary and advisable to provide for the adoption of Planned Unit Developments through the Land Development Code due to the history and unique characteristics of this parcel.

The purpose and intent of the Bailey's Shopping Center Property PUD provided in LDC Section 126-1471:

The purpose and intent of this division is to provide a means to address special and unique circumstances surrounding the history of this lawful but nonconforming development, while also providing for protection of the public health, safety and welfare through the regulation of land use, yet providing some degree of flexibility in planning, designing and carrying out the intended purpose of the project. This is to be accomplished through the adoption and implementation of a master development plan for this planned unit development together with appropriate conditions for development.

Bailey's Shopping Center Property PUD consists of two separate parcels totaling 13.1 acres located at the intersection of Tarpon Bay Road and Periwinkle Way.

The master development plan is filed with the city and provides for a maximum of 54,091 square feet of commercial floor area on the 6.2 acres of commercially zoned land on the 10.7-acre parcel east of Tarpon Bay Road. Required conditions provide that there shall be at least 281 parking spaces for shared parking to serve up to 18 separate commercial units. Except where otherwise

specifically provided for in Division 3 – Bailey’s Shopping Center Property (such as commercial floor area and off-street parking), the requirements of the Land Development Code shall control.

The property maintains lawfully-existing (structural) nonconformances to developed area, impermeable coverage, and commercial landscape buffer standards. The 13-room employee housing facility is the only nonconforming use within the PUD.

2431 Periwinkle Way:

The property at 2431 Periwinkle Way (Periwinkle Adventures LLC) is an approximately half-acre parcel located in the Town Center General Commercial District, which permits up to 12% FAR. The underlying ecological zone is G – Altered Lands and is entitled to 3 residential dwelling units based on the residential density map (6 dwelling units per acre).

First developed in 1960, the principal structure has been the site of a shell gallery (before establishment of Bailey-Matthews Shell Museum on Sanibel-Captiva Road), real estate office, retail stores (consignment shop and gallery), and, combined with residential use, a single dwelling unit for rent. A secondary structure, constructed in 1972, provides an additional residential dwelling unit on site.

The property/structures do not conform with flood requirements, commercial floor area maximum (as a result of combined uses), setbacks, commercial landscape buffers, required off-street parking, and parking design standards.

**PROPOSAL**

The applicant is seeking amendments to Division 3 – Bailey’s Shopping Center Property, Article XVI – Planned Unit Development, of Chapter 126 – Zoning as necessary to allow for:

1. Addition of 0.45 acre parcel at 2431 Periwinkle Way (Periwinkle Adventures LLC) to the Planned Unit Development.
2. Demolish the principal structure (combined commercial and residential), including 3,000 square feet of commercial floor area, and an accessory residential dwelling unit at 2431 Periwinkle Way.
3. Redevelop 3,000 sf of commercial floor area in conjunction with an expansion of the grocery store unit.
4. Relocate Alleck’s Alley to the east to provide 24-foot wide, two-way access to serve the shopping center and the eastern (residential) property.
5. Donate approximately 2-acre parcel (residentially and commercially zoned) to the City of Sanibel (or Community Housing & Resources) for the purpose of Below Market Rate Housing.

6. Demolish the existing movie theater (6,000 sf).
7. Redevelop 6,000 square feet for retail use.
8. Redevelop existing retail liquor store (2,000 sf).
9. Addition of gazebos (architectural design features) to the principal structure.
10. Addition new Porte Cochere entry to general/grocery store.
11. Redesign existing parking lot, including expansion of commercial landscape buffers and interior landscape islands (as well as relocation and overall reduction of ingress-egress curb cuts).
12. Provide for increased pedestrian facilities, bike connectivity and parking.
13. Eliminate 7 existing parking spaces within the landscape buffer area from Tarpon Bay Road.
14. Construct second floor addition for the purpose of incidental storage by the grocery store.

A copy of the application for Amendment to the Land Development Code and narrative response to standards for consideration of a proposed amendment is provided with this report as **Attachment A**. A copy of the draft master site plan, dated June 8, 2021, is provided with this report as **Attachment B**. A copy of the interior landscape buffer plan is provided with this report as **Attachment C**. A copy of the parking demand study, prepared by JMB Transportation Engineering, Inc., is provided with this report as **Attachment D**. A copy of draft architectural renderings is provided with this report as **Attachment E**. A copy of Ordinance No. 93-27 is provided with this report as **Attachment F**. A copy of Section 3.6.2 Future Land Use Element of the Sanibel Plan is provided with this report as **Attachment G**. A copy of the City Charter is provided with this report as **Attachment H**. A copy of Land Development Code Chapter 126 – Zoning, Article XVI – Planned Unit Development, Division 3 – Bailey Shopping Center Property PUD is provided with this report as **Attachment I**. A copy of the fifth amended Master Development Plan (Bailey Shopping Center Property PUD) is provided with this report as **Attachment J**.

## PROCEDURE

Pursuant to Land Development Code Section 82-241, Planning Commission may recommend, to the city council, amendments to zoning district boundaries or to permitted uses or other regulations of this Land Development Code, in accordance with the following standards:

- (1) The planning commission shall make reference to the Sanibel Plan to determine if the proposed amendment to the land development regulations is consistent with the intent and purpose of the Sanibel Plan.

- (2) The planning commission shall determine whether the proposed amendment;
- a. Will encourage the most appropriate use of land and city resources, consistent with the public interest;
  - b. Will prevent the overcrowding of land and avoid the undue concentration of population;
  - c. Will adversely affect the development of adequate and efficient provisions for transportation, water, sewage, schools, parks, recreation facilities, and the environmental, social and economic resources of the city;
  - d. Will adversely affect the character and stability of the present and future land use and development of the community;
  - e. Will adversely affect orderly growth and development;
  - f. Will preserve, promote, protect and improve the public health, safety and general welfare of the community; and
  - g. Is consistent with the City Charter.
- (3) If the planning commission determines that a proposed amendment is inconsistent with the Sanibel Plan or its intent and purpose, the planning commission may, nevertheless, recommend approval of the proposed amendment, along with a corresponding amendment to the Sanibel Plan, if the planning commission determines that the proposed amendment should be approved based upon a consideration of all of the factors specified in subsection (2) of this section.

## ANALYSIS

Staff made the following findings relative to the standards of Section 82-241(a)(2):

- (a) The subject properties are located within the Town Center General Commercial District. The Future Land Use Element of the Sanibel Plan provides the following description of the Town Center General Commercial District:

The purpose of the Town Center General Commercial District is to provide for commercial and mixed-use development in the geographical center of the City. Because of this area's relatively good access from Periwinkle Way, Palm Ridge Road and Tarpon Bay Road and proximity to civic, cultural, and governmental uses, the Town Center General Commercial District is a preferred location for retail and mixed-use development and therefore higher floor area ratios are permitted. The Town Center General Commercial District is designed to provide a wide variety and mixture of retail, office and service uses, along with integrated residential uses of low and moderate intensity.

Staff finds that land use within the PUD will not change as a result of the proposed amendment and therefore remains consistent with the purpose and intent of the Town Center General Commercial District.

- (b) Section 3.6.2 Future Land Use Element of the Sanibel Plan states:

It is important that the City of Sanibel manage future growth by maintaining current development controls, particularly intensity of use requirements, as build-out is approached, in order to prevent overcrowding of land and avoid undue concentration of population; to facilitate the adequate and efficient provision of transportation, water, sewage treatment, schools, recreational facilities, housing and other requirements and services; to ensure adequate hurricane evacuation capabilities; and to conserve, develop, use and protect natural resources.

Staff finds the proposed amendment will not result in an increase of intensity of use as determined by review of the parking demand study provided as **Attachment D**. Therefore, staff finds the proposed amendment will not affect adequate hurricane evacuation capabilities. Furthermore, staff does not find any evidence that the proposed amendment will affect any other of Sanibel's human support services.

- (c) Staff finds the proposed amendment to be consistent with Objective 2 of Section 3.3.1 Human Support Systems of the Sanibel Plan to "ensure that human support systems needed to support development area available, at or above the adopted level of service standards for roads, sanitary sewer, solid waste, drainage, potable water, parks and recreation, and public schools concurrent with the impacts of such development."

- (d) Section 3.6.2 Future Land Use Element of the Sanibel Plan states in regard to community character:

All residential and non-residential structures should be designed and constructed in a manner that is compatible with the character of the community. For both residential and non-residential buildings, "cookie-cutter" architecture should be avoided.

Staff does not find the proposed amendment will adversely affect the community's unique small-town identity (Policy A1.2). The applicant has provided preliminary architectural renderings (**Attachment E**), which demonstrates conformance to the architectural design standards and examples of Land Development Code Section 126-1028. The applicant has made specific design considerations that directly recall the original Old Bailey General Store (1927), which was added to the Local Register of Historic Sites and Structures in 1992.

Section 3.6.2 Future Land Use Element of the Sanibel Plan also provides the following in regard to vegetation buffers:

Vegetation buffers should be installed and maintained on all sides of commercial development.

Staff finds that the applicant has complied with all staff recommendations to eliminate existing developed area that encroaches within 20 feet of any roadway frontage. Except for 8 spaces along the Periwinkle Way

frontage, which are retained due to an overall reduction of parking spaces on the north side of the shopping center development, at least 20 feet of landscape buffer is provided between off-street parking facilities and the adjacent public right-of-way.

- (e) Provisions of the Plan for Development Intensity (Sanibel Plan Section 3.6.2) provides that floor area ratio (FAR) is the first measure of intensity of use.

Staff finds that the proposed amendment involves an additional 9,000 square feet of commercial floor area; 3,000 square feet of which is for the purpose of storage, and therefore negligible as it relates to parking demand and trip generation metrics. The addition of 6,000 square feet of active commercial floor area is off-set by the demolition of 5,509 square feet of commercial floor area comprised by the existing Island Cinema and Periwinkle Adventures building.

Staff also noted that 486 square feet of commercial floor area at the former gas station pumps is proposed to be reallocated as an addition to future use of the service station, at a location which does not encroach within the front setback from Periwinkle Way.

Overall, staff calculates a net increase of 491 square foot in commercial floor area relative to the existing configuration of uses at 2477 and 2431 Periwinkle Way.

Unit/Use	Existing CFA	Proposed CFA
Former service station	1,992 sf	1,992 sf
George & Wendy's Seafood Grille	6,880 sf	6,880 sf
Unit #1	2,856 sf	2,856 sf
Unit #2	379 sf	379 sf
Unit #3	539 sf	539 sf
Unit #4	633 sf	633 sf
Unit #5	960 sf	960 sf
Unit #7	1,257 sf	1,257 sf
Unit #8	978 sf	978 sf
Unit #9	263 sf	263 sf
Unit #10	276 sf	276 sf
Unit #11	1,921 sf	1,921 sf
Bailey's General Store	22,370	33,057 sf (6,000 sf office/storage)
Bailey's Hardware Store	7,407 sf	6,000 sf
The Grog Shop	1,913 sf	1,913 sf

Island Cinema	2,509 sf	0 sf
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- (f) Section 3.6.2 Future Land Use Element of the Sanibel Plan provides the following regarding Adaptive Design:

The City is receptive to new technologies that conserve resources and promote efficiencies; however, even "green buildings" have to be designed in a manner that is compatible with the character of the community.

Staff finds that the applicant intends to integrate sustainable building practices and finds support for an amendment that allows for accessory improvements for green initiatives such as solar panels and electric vehicle charging stations to be approved administratively, without further amendment to the master site development plan.

Furthermore, staff finds that the applicant's intent to donate property for Community Housing and Resources to develop Below Market Rate Housing to be a major step toward advancing expansion to meet their goals for future expansion.

Lastly, staff noted improvements to bike-ped facilities, which provide recreational areas, promote transportation alternatives to the automobile, and improve safe ingress-egress for path users.

- (g) City Charter Section 3.10.1 through 3.10.5 provides specific procedure requirements for ordinances relating to the Environmentally Sensitive Land Conservation District; increasing residential density; removing lands from certain ecological zones or districts; increasing permitted height of buildings; and increasing permitted impermeable coverage, vegetation removal or developed area, which may involve a super majority vote (City Council) or voter referendum (electors).

Staff verified that the proposed amendment does not involve an increase in residential density, permitted height of buildings, or permitted impermeable coverage, vegetation removal or developed area.

Furthermore, the subject property does not involve any lands within the Environmentally Sensitive Land Conservation District, nor does the amendment propose re-zoning of land within the mangrove forest, lowland wetland or upland wetland ecological zone.

Staff made the following findings of the amendment relative to the existing standards of Division 3 – Bailey's Shopping Center Property (Chapter 126 – Zoning, Article XVI – Planned Unit Development):

The proposed amendment is consistent with Land Development Code Section 126-1471 - Purpose and intent, as well as Section 126-1475 – Permitted Uses. However, the following sections have been identified for amendment, as a result of the draft master site plan proposed by the applicant:

- Land Development Code Section 126-1472 – Subject property in order to recognize the addition of 0.45 acres of property (2431 Periwinkle Way) to



the PUD and subdivision of property, predominately located outside of the commercial district with intent for future Below Market Rate Housing use.

- Land Development Code Section 126-1474 - Density/intensity as to accept the proposed addition of commercial floor area, which shall balance with the existing combination of commercial floor area at 2477 Periwinkle Way and 2431 Periwinkle Way; and to delete language regarding the nonconforming use employee housing facility, which will be demolished.
- Land Development Code Section 126-1476 to provide a minimum parking standard that is consistent with the Parking Demand Study reviewed and accepted by staff; and remove an exception from providing a vegetation buffer between underlying commercial and residential zones.
- Staff also recommends the creation of several new LDC Sections under Division 3 – Bailey's Shopping Center Property, including:
  - Authorization of staff to process applications proposing green building practices, renewable energy, and/or sustainable development.
  - Adoption of a master landscape buffer plan to control developed area and impermeable coverage.
  - A unique standard pertaining to commercial parking setback requirements.

## **PUBLIC COMMENT**

Staff received one phone call from property owner on Sanibel Blvd. with questions about the nature of the amendment requested. Staff conveyed that 2500 Island Inn Road (Doc Ford's Restaurant) is located within the Bailey Shopping Center Planned Unit Development, but that none of the proposed amendment will impact development on that parcel.C

There was no additional public comment provided regarding the subject application at the time of this staff report.

## **CONCLUSION**

Should Planning Commission concur that the proposed amendment is filed in accordance with standards of Land Development Code Section 82-242, Planning staff is seeking direction from Planning Commission to proceed with a draft ordinance, responding to any comments from commission and the public, to return to Planning Commission for final review; and for the applicant to proceed with a final master site development plan for final Planning Commission review and recommendation to City Council.

Please note the following staff recommendations for consideration:

1. All off-street parking spaces shall be marked (painted) as indicated on the master site development plan.

2. That an as-built master development plan be formally adopted in the Land Development Code, if found in substantially in compliance with the master site development plan (pending final edits).
3. Adopt new section to facilitate approvals of green building practices or renewable energy features.
4. Adopt an as-built master landscape buffer plan, if found to be substantially in compliance with the master site development plan (pending final edits).
5. Revise parking spaces behind shopping center to eliminate conflicts with utility infrastructure (less than 10 spaces)
6. Specify dumpster area outside of commercial district is for residential service only. Dumpster area for commercial use shall remain on commercially zoned property.
7. Condition 3,000 sf second floor area to be used for only commercial storage use. Future retail, office, or service use is prohibited.
8. Interconnectivity paths shall be implemented as proposed with bike parking provided at the terminus of each facility.

#### **INDEX TO STAFF REPORT ATTACHMENTS**

<b>Attachment</b>	<b>A</b>	-	Application for Amendment to the Land Development Code and narrative response
<b>Attachment</b>	<b>B</b>	-	Draft master site development plan
<b>Attachment</b>	<b>C</b>	-	Interior landscape buffer plan
<b>Attachment</b>	<b>D</b>	-	Parking demand study (JMB Engineering, Inc.)
<b>Attachment</b>	<b>E</b>	-	Draft architectural renderings
<b>Attachment</b>	<b>F</b>	-	Ordinance 93-27
<b>Attachment</b>	<b>G</b>	-	Section 3.6.2 Future Land Use Element of the Sanibel Plan
<b>Attachment</b>	<b>H</b>	-	City Charter
<b>Attachment</b>	<b>I</b>	-	Land Development Code Chapter 126, Article XVI, Division 3 – Bailey Shopping Center Property
<b>Attachment</b>	<b>J</b>	-	Master development plan, Bailey Shopping Center PUD (existing)



City of Sanibel  
Planning Department

# Amendment to the Land Development Code

**STAFF USE ONLY**

APPLICATION No: \_\_\_\_\_ FILING DATE: \_\_\_\_\_ ACCEPTED BY: \_\_\_\_\_ FEE: \_\_\_\_\_

## Part I. Applicant Information

Name of Applicant: RAYMOND FENTON

Applicant Address: 13922 BENTLY CIR. FORT MYERS FL 33912

Applicant Phone: Home - Cell 239 851 7260 Fax \_\_\_\_\_

Applicant Email Address: EFFENTON@FENTONASSOCIATES.COM  
RAYMOND\_FENTON@COMCAST.NET

## Part II. Provide A Brief Description of the Amendment:

Article \_\_\_\_\_ Part SEE ATTACHED Section \_\_\_\_\_ Subsection \_\_\_\_\_

## PART III. Attachments Checklist

The information and attachments requested as part of this application are the minimum necessary to determine if the proposed amendment complies with the requirements of the Comprehensive Land Use Plan (CLUP) and the Land Development Code (LDC). The City may require additional information at any time during the application process, depending upon the nature of the amendment request.

- ☐ Copy of the draft ordinance to amend the Land Development Code
- ☐ Description of how the proposed amendment is consistent with the intent and purpose of the Sanibel Comprehensive Land Use Plan
- ☐ Description of how the proposed amendment will encourage the most appropriate use of land and city resources, consistent with the public interest.
- ☐ Complete Side Two of this application if the proposed amendment applies only to a specific parcel of land.
- ☐ SEE ATTACHED

\* \* \* \* \* CERTIFICATION \* \* \* \* \*

I hereby certify that the information contained in this application and the attachments hereto are true and correct to the best of my knowledge and belief. Furthermore, I acknowledge that the City has the right to inspect the subject property in conjunction with this Land Development code amendment application. (Please advise the City of any restrictions or limitations on the inspections.)

[Signature]  
SIGNATURE OF APPLICANT

4 JUNE 2021  
DATE

**NOTE TO APPLICANT:** The proposed amendment may be subject to private deed restrictions or covenants. It is the applicant's responsibility to verify with the appropriate property owners association whether the proposed amendment complies with the applicable deed restrictions or covenants. **The City does not enforce deed restrictions or act as an arbitrator between the applicant and the association.**

City of Sanibel  
Planning Department

## Amendment to the Land Development Code

\*\*\*\*\* Complete Only For Amendments for a Specific Parcel of Land \*\*\*\*\*

### Part 1. Parcel Identification

Tax Strap No: 26 - 46 - 22 - 12 - 00 00 04 00 10  
Street Address of Property: \_\_\_\_\_

### Part 2. Owner Information

Name of Owner: PERIWINKLE ADVENTURES LLC MANAGING PARTNER  
BAILEY'S CENTER LLP RICHARD JOHNSON  
Owner Address: 2477 PERIWINKLE WAY SANIBEL ISLAND FL 33957  
Owner Phone: 239-628-6865 Business 239-472-1516 Fax \_\_\_\_\_  
Owner Email Address: RJOHNSON@BAILEYS-SANIBEL.COM

### Part 3. Provide a Brief Description of the Proposed Amendment:

SEE ATTACHED

### Part 4. Attachments Checklist

The information and attachments requested as part of this application are the minimum necessary to determine if the proposed amendment complies with the requirements of the Comprehensive Land Use Plan (CLUP) and the Land Development Code (LDC). The City may require additional information, at any time during the application process, to determine compliance with the requirements of the CLUP and the LDC.

- LEEDA DEED/AFFIDAVIT OF OWNERSHIP OR CONTRACT FOR PURCHASE OR LEE COUNTY OWNER OF RECORD
- X OWNER'S AUTHORIZATION (Notarized)
- \_\_\_\_ SURVEY (1"=20', With Raised Seal and Signature of Florida Registered Surveyor or Engineer)
- X LOCATION MAP
- \_\_\_\_ OTHER INFORMATION REQUIRED FOR COMPLIANCE WITH THE LAND DEVELOPMENT CODE:

### Part 5. Public Hearing Notification Requirement

- ✓ Provide name and address labels for all property owners within a radius of 300 feet of the extreme limit of the parcel proposed for development (to be obtained from the Lee County Geographic Information System Department). Refer to the "Adjacent Property Owners" section of the "Instructions for Permits and Other Applications of the Sanibel Land Development Code" for complete details on obtaining this information.

8 June 2021

## Baileys Center Redevelopment Plan

### Revisions to Baileys PUD Record Drawing

1. Add to the Bailey PUD a parcel of approximately .45 acres zoned commercial in the NE corner abutting Periwinkle with a 100 foot frontage.
2. Relocate Alecks Alley (a 10 foot one way alley) to the east to provide a 24 foot, Two way road to serve both the shopping center and the eastern property.
3. Donate Approximately 2 acre parcel, residential and commercial, east side of Property to the City of Sanibel for the purpose of Below Market Rate Housing.
4. Tear down the existing movie theater to make room for redevelopment.
5. The .45 acre property to be added to PUD has an existing 3000 sq. ft. Commercial building which will be demolished and the 3000 sq. ft. will be relocated South of the grocery store.
6. We will rebuild the sq. ft. of the demolished theater in a new structure as shown South of the grocery store.
7. We will rebuild the existing liquor store, same footprint to the south of the grocery store to allow for expansion of the grocery store.
8. We are adding a number of gazebos, to existing walkways for the purpose of Shaded seating and outdoor bonus dining as architectural visual features.
9. We are adding a new entry to general/grocery store, as an architectural visual Feature with a Porte Cochere entry for public comfort and shade.
10. Realign and restripe existing parking lot on existing pavement creating more island And buffer landscaping. Relocate Tarpon Bay Road entry to south of commercial Property with a new additional center sign.
11. Provide for increased pedestrian and bicycle circulation and bicycle racks.
12. Eliminate 7 existing parking spaces off Tarpon Bay Road to extend 20' vegetation Buffer.
13. Build new incidental 3000 sf storage facility on roof over new area of grocery store For use by the grocery store

**Amend LDC Article XVI Planned Unit Development  
Division 3 Baileys Shopping Center Property**

Description of how the proposed amendments will encourage the most appropriate use of land and city resources, consistent with the public interest.

1. The proposed amendment will encourage the most appropriate use of land and city resources, consistent with the public interest because the amendments only effect land Within the Baileys Shopping Center property PUD and Sanibel City Council has previously found that by establishing this PUD it was “ providing for the protection for the public , safety and welfare” (re: LDC SEC. 126-1471 Purpose and Intent)
2. The proposed amendments will prevent the overcrowding of land and avoid undue concentration of population because no new commercial floor area will be added as a result of adoption of these amendments and all development will take place within the Baileys Shopping Center PUD.
3. The proposed amendments will not adversely affect the development of adequate and efficient provisions for transportation, water, sewage, schools, parks, recreational facilities, and the environmental, social, and economic resources of the city of Sanibel Because the traffic study by JMB Transportation Engineering INC. dated 15 January 2021 Demonstrates no adverse effect on transportation, including traffic and parking: The Island Water Association will continue to supply the potable water: The City Utility will continue to treat sewage: No native vegetation will be destroyed and addition native vegetation will be planted: Economic activity will be stimulated by making more efficient use of existing commercial floor area, and there may be opportunity for additional social Interaction as a result of the stimulated economic activity. New construction will be built following Green Technology, ie: existing building has over 10,000sf of solar panels.
4. The proposed amendments will not adversely affect the character and stability of the present and future land use and development of the community because all the development will take place within the existing Baileys shopping center PUD. In addition Bailey will redevelop the entire exterior, facing the public, to an architectural character as required by Sanibel commercial development standards.
5. The proposed amendments will not adversely affect the orderly growth and development because all development will take place within the Baileys Shopping Center PUD.
6. The proposed amendments will preserve, promote, protect, and improve the public health safety, safety and general welfare of the community because all development will take place within the Bailey Shopping Center PUD, and the City Council has previously found the establishment of this PUD to provide for the protection of public health, safety and welfare (re: LDC sec. 126-1471 Purpose and Intent)

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7. The proposed amendments are consistent with the City Charter as follows:  
The ordinance containing the LDC amendments are consistent with the City Charter  
Sec. 3.10 Ordinances in General.

Amend LDC Article XVI Planned Unit Development  
Division 3 Baileys Shopping Center Property

LDC 126-1471 Amendments for consideration:

1. Amend LDC 126-1472 Subject Property

The Planned Unit Development consists of three separate parcels totaling 13.56 acres (estimate) located at the intersection of Tarpon Bay Road and Periwinkle Way.

2. Amend LDC Sec. 126-1474 Density/Intensity

A maximum of 60,091 square feet of commercial floor area is permitted on the 6.7 acres (estimate) of commercially zoned land on the 9.2 acres (estimate) parcel east of Tarpon Bay Road. The remaining 2 acres residentially zoned parcel retains no residential density, and therefore may not be developed for residential use, except for increased-density Below Market Rate Housing as approved by conditional use permit.

3. Amend LDC Sec. 126-1476 Required Conditions

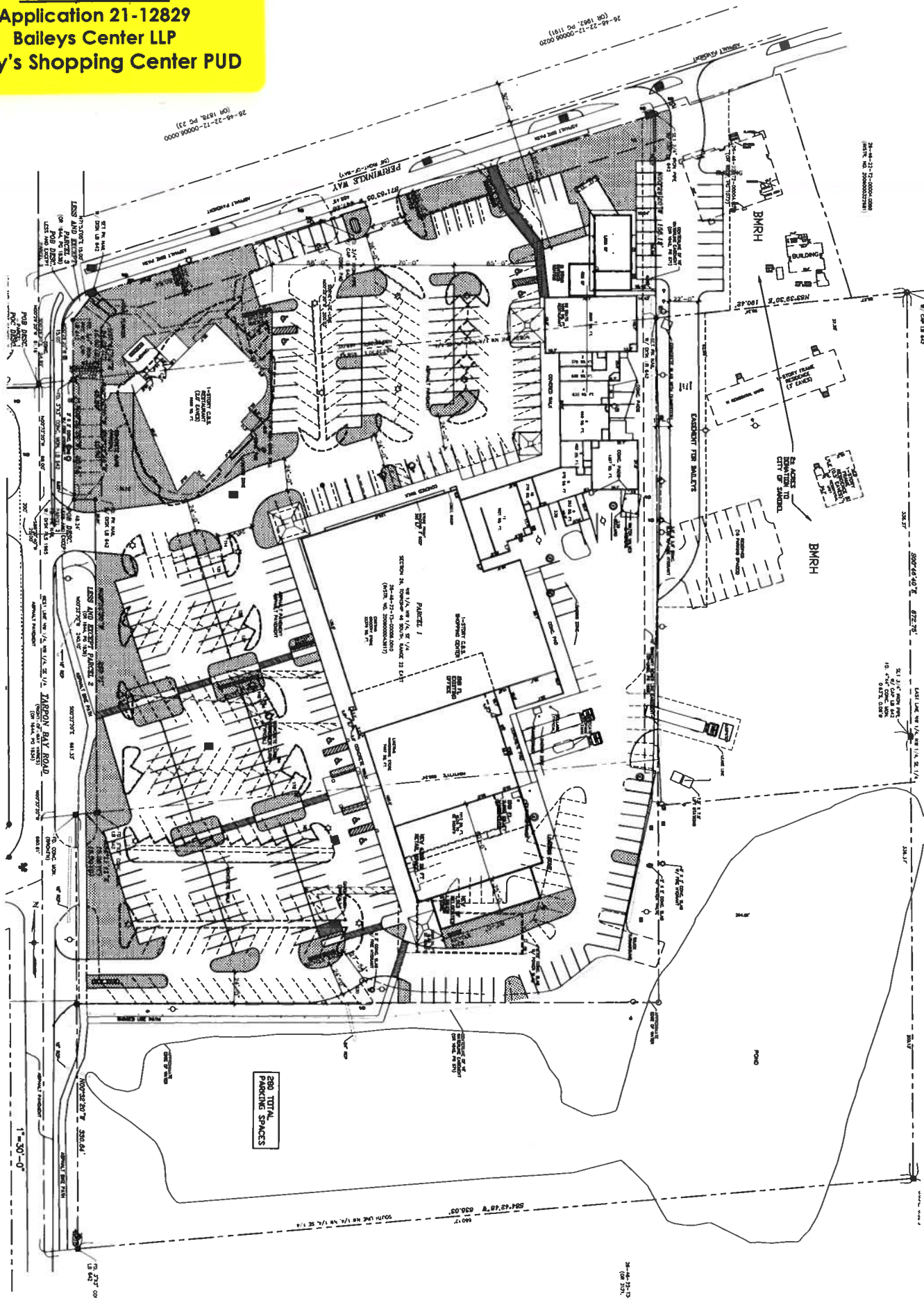
(c) On site parking. Conditions for on site parking shall be as follows:

(1) There shall be at least 250 parking spaces which shall serve as shared parking for 18 separate commercial units in the 60,091 of commercial floor area shown on the master development plan.

C A ten foot vegetation buffer is not required between the underlying commercial and residential zones within the planned unit development.

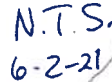


**AMENDED MASTER DEVELOPMENT PLAN**  
06/08/2021





## Bailey's Shopping Center PUD



**JMB** TRANSPORTATION ENGINEERING, INC.  
TRAFFIC/TRANSPORTATION ENGINEERING & PLANNING SERVICES

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**PARKING DEMAND STUDY**

For

**Bailey's General Store & Shops**  
(City of Sanibel, Florida)

January 15, 2021

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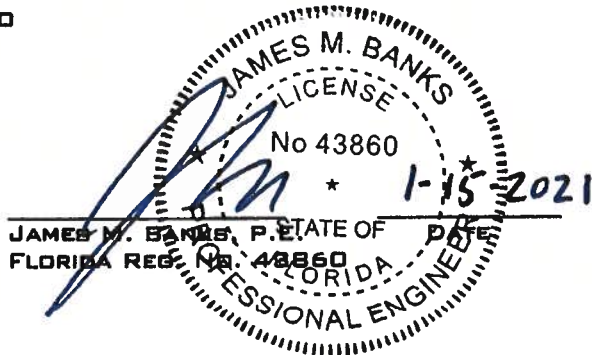
Prepared by:

**JMB** TRANSPORTATION ENGINEERING, INC.  
4711 7TH AVENUE SW  
NAPLES, FLORIDA 34119

CERTIFICATE OF AUTHORIZATION NO. 27830

(PROJECT NO. 091012)

**ATTACHMENT D**  
Application 21-12829  
Baileys Center LLP  
Bailey's Shopping Center PUD



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<b>Appendix</b>	<b>8</b>

### **Executive Summary**

Bailey's General Store & Shops is a mixed-use retail center that is located on the southeast corner of Tarpon Bay Road and Periwinkle Way, Sanibel Island, Florida. It is proposed to redevelop a portion of the site, which will include razing some existing buildings and constructing new structures. More specifically, it is proposed to eliminate an existing movie theater, relocate an existing liquor store and create 6,000 square feet of new retail commercial floor space. In addition, the site's parking layout will be improved and augmented.

In addition to the proposed changes described above, Bailey's is awaiting approval of a previously requested conditional use permit for a high-turnover restaurant that will be located in a structure that housed a gas/service station. The restaurant will have a total indoor seating capacity of 66 seats and 16 outdoor bonus seats.

### **Parking Demand vs. Parking Capacity**

*It should be recognized that the City of Sanibel's parking requirements are based upon the needs of free-standing land uses and do not reflect "shared parking" that occurs when adjacent land uses have varying peak parking demand periods. That is, the parking requirements of free-standing land uses typically exceed the actual mixed uses' aggregate parking needs when those uses collectively create a multi-purpose destination. In addition to the business synergies of mixed-use commercial centers, the peak parking demand of individual land uses can vary. This variable demand results in the sharing of the site's parking accommodations that reduce the collective parking needs of the land uses.*

The Report determined that the developer has demonstrated by clear and convincing evidence that there is adequate parking capacity to accommodate the total parking demand for all existing land uses within Bailey's plus the parking demand that will be generated by the proposed restaurant (will occupy previous gas station structure) and the net increase of 6,000 square feet of retail space. As such, Bailey's has satisfied Section 126-1363 of the Sanibel Land Development Code, which authorizes the City to grant a waiver to the LDC's required number of parking spaces when it is deemed appropriate to do so. If approved, Bailey's peak season parking demand will be 249 occupied spaces and the proposed parking improvements will result in an available capacity of more than 300 spaces.



**Scope of Project**

Bailey's General Store & Shops is an existing commercial center that is located on the southeast corner of Tarpon Bay Road and Periwinkle Way, Sanibel Island, Florida. Bailey's was developed pursuant to the criteria set forth by the City of Sanibel as a Planned Unit Development (PUD). Bailey's consists of a wide range of commercial tenants consisting of a grocery store with a deli and a coffee bar, hardware store, wine & spirits store, movie theater, bike rentals, quality restaurant, carry-out food sales, high-turnover restaurants, and miscellaneous retail/office uses.

**Pending Final Approval**

Bailey's is awaiting approval of a previously requested conditional use permit for a high-turnover restaurant that will be located in the structure that housed a gas/service station. The restaurant will have a total indoor seating capacity of 66 seats and 16 outdoor bonus seats.

**Proposed Changes**

Bailey's General Store & Shops is proposing to redevelop a portion of the commercial center, which will result in eliminating the movie theater, relocating the existing liquor store and a net increase of 6,000 square feet of retail commercial floor space. In addition, the site's parking will be improved and augmented to a capacity of 300 spaces.

## **Parking Needs**

### Methodology

The parking required versus needs methodology employed by this Report is consistent with Section 126-1363 of the Sanibel LDC, which is:

*Section 126-1363 – Allowance for fewer than required spaces.*

*The planning commission may, but need not, permit any development to have fewer parking spaces than required if it finds that:*

- (1) The developer has demonstrated, by clear and convincing evidence, that the required number of parking spaces will not be reasonably necessary for the proposed use in the foreseeable future;*
- (2) The proposed development includes sufficient open area reserved for all the required parking spaces to be later provided, if deemed necessary by the planning commission, in conformance with all requirements and limitations of this Land Development Code, including developed area limitations, setbacks, etc., and*
- (3) The development permit is conditioned upon the property owner providing all required spaces within 90 days after they are deemed to be necessary by the planning commission.*

### Parking Demand Survey

Bailey's Shopping Center has a wide range of commercial tenants consisting of a grocery store with a deli and a coffee bar, hardware store, wine & spirits store, movie theater, bike rentals, quality restaurant, high turnover restaurants, carry-out food sales and miscellaneous retail/office uses.

A parking demand survey was conducted on Thursday, February 8, 2018. At that time, Bailey's was at 100% occupancy, except for one (1) vacant conditional use "carry-out food sales" (previously occupied by Piez Pizza) and a vacant gas/service station. The vacated Piez Pizza floor area is now occupied by a carry-out food sales business by the name Spoonrift. As proposed, the gas/service station will be displaced by the conditional use 66-seat restaurant, and the movie theater will be razed, the liquor store will be reconstructed, and 6,000 square feet of additional retail space will be constructed.

All of Bailey's commercial land uses share a common parking area, and at the time the parking demand survey was conducted, the site had a total capacity of 270 spaces. The parking demand data was collected via a per zone basis for the commercial-use parking areas of the PUD. Figure 2 (refer to page A2) provides a detail of the survey zones.

Table 2A identifies the available paved parking spaces per zone, which are:

Zone "A"	44 parking spaces
Zone "B"	78 parking spaces
Zone "C"	24 parking spaces
Zone "D"	75 parking spaces
Zone "E"	<u>49 "unmarked" parking spaces</u>
Total =	270 parking spaces

Total Commercial Parking Capacity (as of February 8, 2018) = **270 parking spaces**

The parking survey was conducted during the highest peak demand periods of the day for the various types of commercial uses. That is, the survey began at 9:30 AM and ended at 6:15 PM. Parking counts were performed every fifteen minutes. Table 2A provides a summary of the parking demands for each zone, as well as, the total parking demands per each fifteen-minute period. As shown the highest peak parking demand occurred at 12:00 PM, which was:

Total peak parking demand - 222 occupied parking spaces

Table 2A and Table 2B provide a summary of the total parking capacity for each zone and the percentage of capacity used, respectively. As shown, the highest peak parking demand versus capacity occurred at 12:00 PM, which was:

Parking demand/capacity ratio = 82.2%

#### *Seasonal Parking Demands*

Because the parking survey was conducted during the month of February, a slight seasonal adjustment to the data was deemed appropriate in order to reflect parking demands for the month of March peak season conditions.

Based upon the data provided by the Lee County Traffic Count Report, the highest seasonal traffic conditions for Sanibel Island occur during the month of March. As shown by the Traffic Count Report's Permanent Count Station 120, the month of March experiences a 127% increase in the daily traffic volumes versus the average daily traffic conditions. The month of February has a daily traffic demand of 123% of the average daily traffic, but because the data was collected in early February, the adjustment was based upon an averaged traffic demand of January and February. As such, the following seasonal adjustment was applied to the parking data that was collected on February 8, 2018.

March = 127% ADT  
January/February = 115% ADT  
Seasonal Adjustment =  $(127\%)/(115\%) = 110\%$



Therefore, the month of March peak season parking demand has been determined to be:

Peak season parking demand = (222 vehicles)x(110%) = **244 occupied spaces**

As such, the peak season parking demand versus "existing" commercial capacity is:

On-site parking demand/capacity ratio = (244 vehicles)/ (270 spaces) = **90.4%**

**Additional Parking Required per Sanibel LDC**

If the proposed changes are approved, then Bailey's will convert the previously occupied gas/service station into a high- turnover restaurant (restaurant, general) having a total indoor seating capacity of 66 seats and 16 outdoor bonus seats, and eliminate the movie theater, and construct 6,000 square feet of retail commercial. Also, at the time the parking demand survey was performed, there was a vacant conditional use space (i.e., carry-out food sales), which is now occupied by Spoondrift. Therefore, the total required parking spaces needed to accommodate the proposed 66-seat restaurant and the carry-out food sales (Spoondrift) and the additional retail floor space (less the movie theater parking demands) will be five (5) spaces, and as summarized below in Table B.

**Table B  
Parking Needs**

<b><u>Land Use</u></b>	<b><u>Location</u></b>	<b><u>Size</u></b>	<b><u>Req'd Parking per Sanibel Code</u></b>
Restaurant, General	Vacated Gas Station	66 seats/1,643 s.f.	31 Spaces
Carry-out Food Sales	Store Front Space	918 s.f.	8 Spaces
Added Retail Commercial	Southernmost Area	6,000 s.f.	30 Spaces
Movie Theater (to be razed)	Southernmost Area	190 seats/2,509 s.f.	<u>(-)64 Spaces</u>

**Net New Required = 5 Spaces**

Based upon the parking requirements of the Sanibel LDC, Bailey's General Store & Shops will need to ensure that there are five (5) additional parking spaces available to accommodate the parking demands associated with the proposed 66-seat restaurant and the carry-out food sales (Spoondrift) and the addition of 6,000 square feet. Therefore, it can be concluded that Bailey's total existing peak season parking demand is 244 occupied spaces and the additional demand will be 5 spaces, which yields a total demand of 249 occupied spaces. Although it has been proven that there is adequate parking, Bailey's parking capacity is less than required by code. However, the City of Sanibel can approve a reduction in required parking spaces if the developer/owner can demonstrate that the required number of spaces will not be reasonably necessary for the proposed use in the foreseeable future.

The Applicant has proven that the proposed improvements and parking plan is consistent with LDC Section 126-1363 and supported by the evidence, herein:

*Section 126-1363 – Allowance for fewer than required spaces.*

*The planning commission may, but need not, permit any development to have fewer parking spaces than required if it finds that:*

- (1) The developer has demonstrated, by clear and convincing evidence, that the required number of parking spaces will not be reasonably necessary for the proposed use in the foreseeable future;*
- (2) The proposed development includes sufficient open area reserved for all the required parking spaces to be later provided, if deemed necessary by the planning commission, in conformance with all requirements and limitations of this Land Development Code, including developed area limitations, setbacks, etc., and*
- (3) The development permit is conditioned upon the property owner providing all required spaces within 90 days after they are deemed to be necessary by the planning commission.*

Based upon the Report's findings, it has been concluded that the developer has demonstrated by clear and convincing evidence that the number of parking spaces required by code will not be reasonably necessary. Bailey's General Store & Shops is proposing to provide more than 300 parking spaces that will accommodate the various land uses' peak season demand of 249 occupied spaces.

## **APPENDIX**

Site Plan

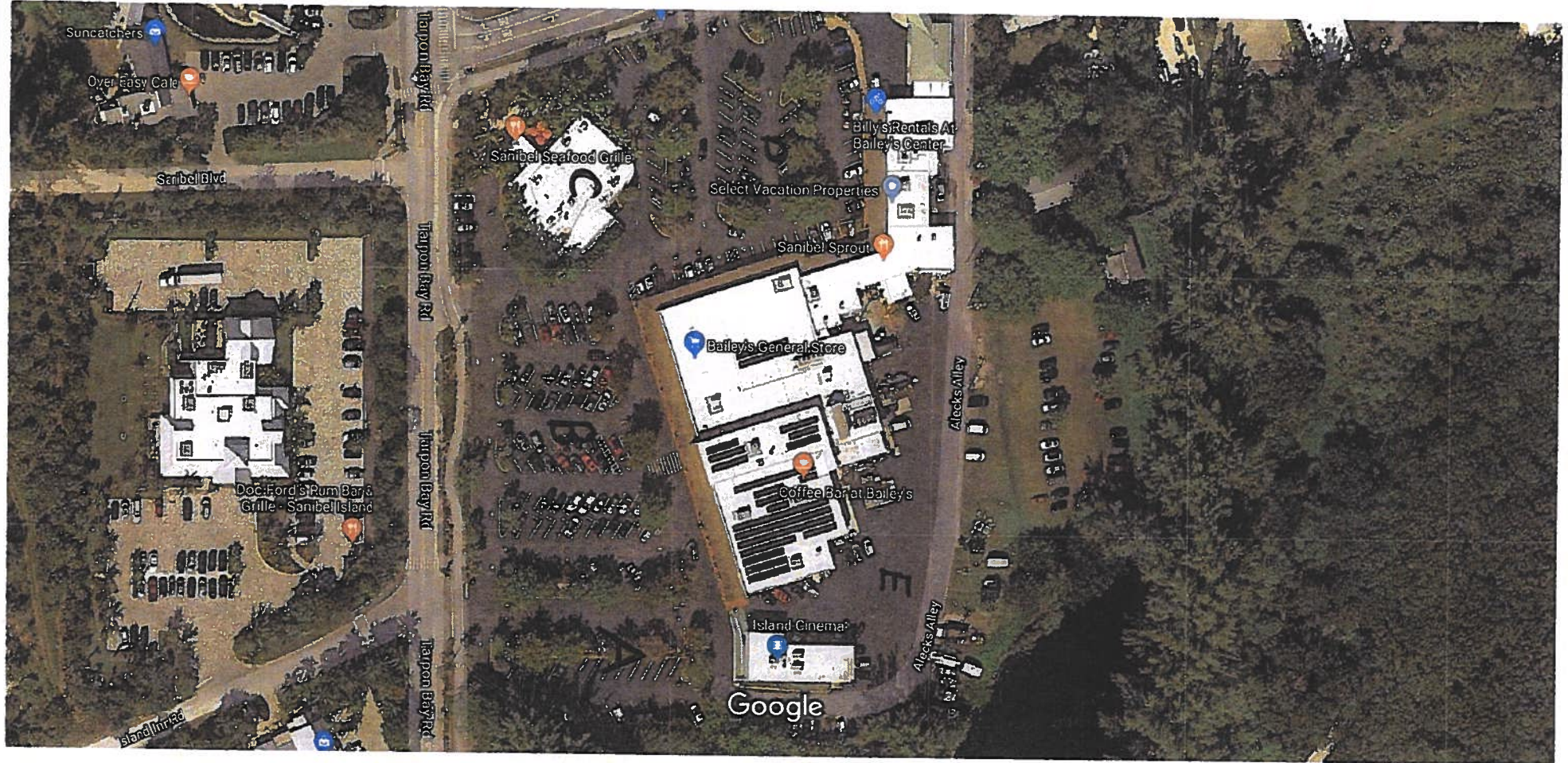
Tables 1 thru 3

Figures 1 thru 3

Miscellaneous Documents







Imagery ©2018 DigitalGlobe, U.S. Geological Survey, Map data ©2018 Google 100 ft

**Table 2A**

**Bailey's General Store and Shops**  
**On-Site Parking**

**Date of Count: February 8, 2018**

<b>Start Time</b>	<b>Zone "A"</b>	<b>Zone "B"</b>	<b>Zone "C"</b>	<b>Zone "D"</b>	<b>Zone "E"</b>	<b>Total</b>
<b>Parking Capacity</b>	<b>44</b>	<b>78</b>	<b>24</b>	<b>75</b>	<b>49</b>	<b>270</b>
					<i>(See Note No. 1)</i>	
9:30 AM	18	48	3	34	35	138
9:45 AM	20	48	3	34	34	139
10:00 AM	20	47	6	35	41	149
10:15 AM	19	44	6	38	41	148
10:30 AM	17	63	6	45	41	172
10:45 AM	18	66	7	45	41	177
11:00 AM	21	68	7	49	39	184
11:15 AM	21	69	8	51	39	188
11:30 AM	29	65	11	53	45	203
11:45 AM	31	54	14	56	48	203
NOON	33	66	19	56	48	222
12:15 PM	32	70	19	53	45	219
12:30 PM	30	68	19	52	45	214
12:45 PM	28	61	20	55	45	209
1:00 PM	31	51	20	55	47	204
1:15 PM	30	60	21	59	48	218
1:30 PM	27	60	23	62	48	220
1:45 PM	25	55	21	61	50	212
2:00 PM	21	45	17	53	50	186
2:15 PM	20	53	19	55	50	197
2:30 PM	19	60	18	55	50	202
2:45 PM	25	58	18	53	47	201
3:00 PM	28	46	14	53	42	183
3:15 PM	30	46	12	54	41	183
3:30 PM	36	42	12	55	43	188
3:45 PM	40	48	13	51	44	196
4:00 PM	42	51	13	44	40	190
4:15 PM	42	53	14	38	40	187
4:30 PM	38	54	14	36	37	179
4:45 PM	38	51	17	40	37	183
5:00 PM	37	40	22	48	37	184
5:15 PM	35	40	24	50	35	184
5:30 PM	32	38	24	51	33	178
5:45 PM	37	43	24	54	31	189
6:00 PM	32	53	24	51	31	191

Note No. 1: Parking spaces have not been designated per Master Development Plan



**Table 2B**  
**Parking Demand vs. Capacity**

<b>Start Time</b> <b>Parking Capacity</b>	<b>Zone "A"</b> <b>44</b>	<b>Zone "B"</b> <b>78</b>	<b>Zone "C"</b> <b>24</b>	<b>Zone "D"</b> <b>75</b>	<b>Zone "E"</b> <b>49</b>	<b>Total</b> <b>270</b>
9:30 AM	40.9%	61.5%	12.5%	45.3%	71.4%	51.1%
9:45 AM	45.5%	61.5%	12.5%	45.3%	69.4%	51.5%
10:00 AM	45.5%	60.3%	25.0%	46.7%	83.7%	55.2%
10:15 AM	43.2%	56.4%	25.0%	50.7%	83.7%	54.8%
10:30 AM	38.6%	80.8%	25.0%	60.0%	83.7%	63.7%
10:45 AM	40.9%	84.6%	29.2%	60.0%	83.7%	65.6%
11:00 AM	47.7%	87.2%	29.2%	65.3%	79.6%	68.1%
11:15 AM	47.7%	88.5%	33.3%	68.0%	79.6%	69.6%
11:30 AM	65.9%	83.3%	45.8%	70.7%	91.8%	75.2%
11:45 AM	70.5%	69.2%	58.3%	74.7%	98.0%	75.2%
NOON	75.0%	84.6%	79.2%	74.7%	98.0%	82.2%
12:15 PM	72.7%	89.7%	79.2%	70.7%	91.8%	81.1%
12:30 PM	68.2%	87.2%	79.2%	69.3%	91.8%	79.3%
12:45 PM	63.6%	78.2%	83.3%	73.3%	91.8%	77.4%
1:00 PM	70.5%	65.4%	83.3%	73.3%	95.9%	75.6%
1:15 PM	68.2%	76.9%	87.5%	78.7%	98.0%	80.7%
1:30 PM	61.4%	76.9%	95.8%	82.7%	98.0%	81.5%
1:45 PM	56.8%	70.5%	87.5%	81.3%	102.0%	78.5%
2:00 PM	47.7%	57.7%	70.8%	70.7%	102.0%	68.9%
2:15 PM	45.5%	67.9%	79.2%	73.3%	102.0%	73.0%
2:30 PM	43.2%	76.9%	75.0%	73.3%	102.0%	74.8%
2:45 PM	56.8%	74.4%	75.0%	70.7%	95.9%	74.4%
3:00 PM	63.6%	59.0%	58.3%	70.7%	85.7%	67.8%
3:15 PM	68.2%	59.0%	50.0%	72.0%	83.7%	67.8%
3:30 PM	81.8%	53.8%	50.0%	73.3%	87.8%	69.6%
3:45 PM	90.9%	61.5%	54.2%	68.0%	89.8%	72.6%
4:00 PM	95.5%	65.4%	54.2%	58.7%	81.6%	70.4%
4:15 PM	95.5%	67.9%	58.3%	50.7%	81.6%	69.3%
4:30 PM	86.4%	69.2%	58.3%	48.0%	75.5%	66.3%
4:45 PM	86.4%	65.4%	70.8%	53.3%	75.5%	67.8%
5:00 PM	84.1%	51.3%	91.7%	64.0%	75.5%	68.1%
5:15 PM	79.5%	51.3%	100.0%	66.7%	71.4%	68.1%
5:30 PM	72.7%	48.7%	100.0%	68.0%	67.3%	65.9%
5:45 PM	84.1%	55.1%	100.0%	72.0%	63.3%	70.0%
6:00 PM	72.7%	67.9%	100.0%	68.0%	63.3%	70.7%

**Sec. 126-1341. - Required parking spaces.**

No development permit shall be issued for any dwelling unit, or for any addition to or expansion of a dwelling unit, unless parking spaces, in compliance with all requirements of this article, are provided as follows:

[↗ EXPAND](#)

Use	Required Parking Spaces
Single-family dwellings and duplexes	2 for each dwelling unit.
Multifamily developments of no more than 20 dwelling units, except resort housing	2 for each dwelling unit.
Multifamily developments of more than 20 dwelling units, except resort housing	10, plus 1.5 for each dwelling unit.
Multifamily resort housing developments	1.5 for each dwelling unit.

(Ord. No. 85-26, § 1(I.E.23(a)), 11-27-1985)

**Secs. 126-1342—126-1360. - Reserved.**

**Subdivision III. - Nonresidential Uses**

**Sec. 126-1361. - Required parking spaces.**

No development permit shall be issued for any nonresidential use or structure, or for any addition to or expansion thereof, unless parking spaces, in compliance with all requirements of this section, are provided as follows:

[↗ EXPAND](#)

Use	Required Parking Spaces
Commercial retail uses	For each separate use or commercial unit with more than 1,000 square feet of floor area, 1 for each 200 square feet (or fraction thereof) of floor area; for each separate use or commercial unit with less than 1,000 square feet of floor area, 5 spaces.



Food stores, delicatessens, carry-out food sales and fast food restaurants without seats	For each separate use or commercial unit with more than 1,000 square feet of floor area, 8 spaces plus 1 for each 200 square feet (or fraction thereof) of floor area in excess of 1,000 square feet; for each separate use or commercial unit with less than 1,000 square feet, 8 spaces.
Restaurants, general	For each separate use or commercial unit, 15 spaces plus 1 space for each 3 seats in excess of 20 seats, or 1 space for every 75 square feet, or fraction thereof, of floor area (excluding bar/lounge area), whichever is greater. Thirty linear inches of counter space shall be considered as 1 seat.
Restaurants, general with carry-out services	For each separate use or commercial unit, 20 spaces plus 1 space for each 3 seats in excess of 20 seats; or 1 space for every 75 square feet, or fraction thereof, of floor area (excluding bar/lounge area), whichever is greater. Thirty linear inches of counter space shall be considered as 1 seat.
Restaurants, fast food, with seats	For each separate use or commercial unit, 20 spaces plus 1 space for each 2 seats in excess of 20 seats, or 1 space for every 62.5 square feet, or fraction thereof, of floor area (excluding bar/lounge area), whichever is greater. Thirty linear inches of counter space shall be considered as 1 seat.
Bars/lounges	For each bar/lounge area, 1 space for each 2 seats, or 5 spaces plus 1 space for every 50 square feet, or fraction thereof, of floor area in excess of 200 square feet attributable to the bar/lounge use, whichever is greater. Thirty linear inches of counter space shall be considered 1 seat.
Office and service uses	For each separate use or commercial unit with more than 1,000 square feet of floor area, 5 spaces plus 1 for each 250 square feet (or fraction thereof) of floor area in excess of 1,000 square feet; for each separate use or commercial unit with less than 1,000 square feet of floor area, 5 spaces.
Theatres, churches, auditoriums, and public assembly halls	1 for every 3 fixed seats, or 1 for every 100 square feet of floor area, whichever is greater.

## PCS 120 - Sanibel Toll Plaza

2018 AADT = 18,000 VPD

Hour	EB	WB	Total
0	0.56%	0.34%	0.45%
1	0.24%	0.20%	0.22%
2	0.12%	0.15%	0.13%
3	0.10%	0.16%	0.13%
4	0.25%	0.30%	0.28%
5	0.47%	1.01%	0.74%
6	1.06%	3.67%	2.38%
7	2.28%	7.80%	5.07%
8	3.29%	9.70%	6.53%
9	4.43%	9.15%	6.81%
10	5.89%	8.11%	7.01%
11	6.47%	7.99%	7.24%
12	6.76%	7.68%	7.22%
13	7.39%	6.91%	7.15%
14	8.29%	6.87%	7.57%
15	9.80%	6.83%	8.30%
16	10.45%	6.08%	8.24%
17	9.81%	4.97%	7.36%
18	6.94%	3.71%	5.31%
19	4.18%	2.75%	3.46%
20	3.22%	2.08%	2.64%
21	3.18%	1.70%	2.43%
22	3.12%	1.23%	2.16%
23	1.72%	0.61%	1.15%

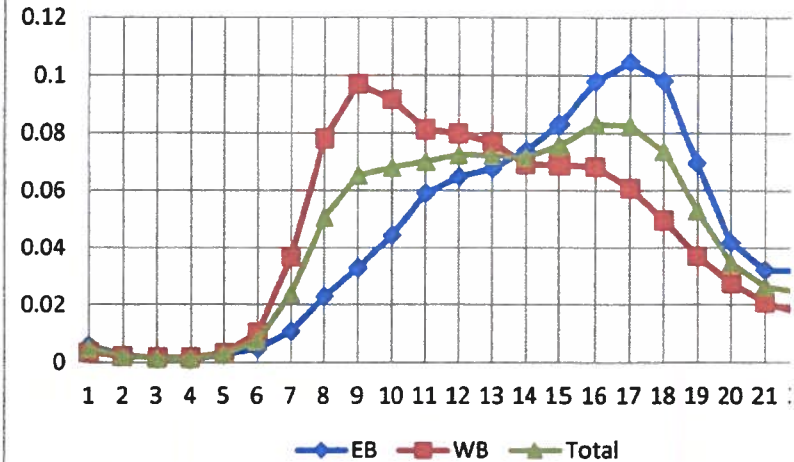
Month of Year	Fraction
January	1.06
February	1.23
March	1.27
April	1.09
May	0.90
June	0.96
July	0.98
August	0.73
September	0.68
October	0.86
November	
December	0.96

Directional Factor		
AM	0.78	WB
PM	0.63	EB

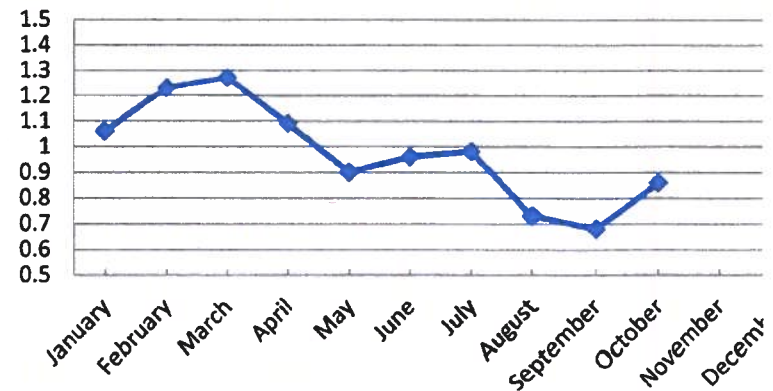
Day of Week	Fraction
Sunday	0.81
Monday	1.02
Tuesday	1.03
Wednesday	1.01
Thursday	1.04
Friday	1.1
Saturday	1.01

Design Hour Volume		
#	Volume	Factor
5	2097	0.117
10	2064	0.115
20	2022	0.112
30	1958	0.109
50	1865	0.104
100	1809	0.101
150	1769	0.098
200	1731	0.096

### Hour of Day



### Month of Year





**ATTACHMENT E**  
Application 21-12829  
Baileys Center LLP  
Bailey's Shopping Center PUD





view 4  
May 25, 2021





view 5  
May 25, 2021





view 6  
May 25, 2021





view 7  
May 25, 2021





view 8  
May 25, 2021





view 11  
May 25, 2021

CITY OF SANIBEL

ORDINANCE NO. 93 - 27

AN ORDINANCE AMENDING ARTICLE VI, PLANNED UNIT DEVELOPMENT, OF THE SANIBEL LAND DEVELOPMENT CODE, COMBINING AND RENUMBERING FORMER PARTS A AND B; CREATING A NEW PART B, "PLANNED UNIT DEVELOPMENT STANDARDS FOR THE BAILEY'S SHOPPING CENTER PROPERTY" (TAX PARCEL NOS. 26-46-22-T3-00006.0010 AND 26-46-22-T4-00031.0010); PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Bailey's Shopping Center, previously known as Island Shopping Center, was existing on a portion of the subject parcel that is referred to as the East Parcel (now Tax Parcel No. 26-46-22-T3-00006.0010) when the City of Sanibel was incorporated in 1974; and

WHEREAS, in 1978 the Island Shopping Center located on the East Parcel consisted of approximately 34,000 square feet of store space; and

WHEREAS, in 1978 the owners determined to expand the shopping center, and in conjunction with their architects, submitted an application to the City of Sanibel seeking approval for an expanded shopping center containing approximately 70,000 square feet; and

WHEREAS, in 1979 the City of Sanibel approved the Application to enlarge the Island Shopping Center by the enactment of Ordinance SA 79-16, also known as "Specific Amendment application [to the Sanibel Comprehensive Land Use Plan] No. 78-125"; and,

WHEREAS, the City of Sanibel issued Development Permit No. 78-666 for the expansion of the Shopping Center on the East

Parcel to 70,000 square feet, and one of the conditions to the Development Permit was that some parking spaces for the Shopping Center would be located upon the then vacant West Parcel (now Tax Parcel No. 26-46-22-T4-00031.0010) in order to comply with parking standards in effect at that time for the amount of expansion approved on the East parcel; and

WHEREAS, in 1981 the owners determined not to expand the shopping center to the permitted 70,000 square feet as originally planned, but revised the development permit to limit the expansion to approximately 54,000 square feet which required a minimum of 321 parking spaces and not the 385 spaces required when 70,000 square feet was proposed; and

WHEREAS, the Island Shopping Center was thereafter expanded in accordance with the plans approved by the City to approximately 54,000 square feet; and

WHEREAS, there was never an adjustment made to the parking requirements on the West Parcel to reflect the downsizing of the Island Shopping Center from 70,000 square feet to 54,000 square feet; and

WHEREAS, in 1985 Ordinance No. SA-85-01 was adopted to permit 91 square feet of additional floor area (converted from a walkway); and

WHEREAS, parking standards have been amended in 1981 and 1985 so that there is no longer the same surplus of spaces as there was in 1981, prior to these amendments; and



WHEREAS, the City has adopted a Land Development Code to implement the goals, objectives, and policies of the Comprehensive Land Use Plan; and

WHEREAS, a procedure has been established to revise and amend regulations in the Land Development Code in a manner consistent with the Comprehensive Land Use Plan; and

WHEREAS, the City deems it necessary and advisable to provide for the adoption of Planned Unit Developments through the Sanibel Land Development Code; and

WHEREAS, due to the history and unique characteristics of this parcel a Planned Unit Development would be advisable; and

WHEREAS, the City deems it necessary and advisable to provide for certain standards and requirements through the establishment of a Bailey's Shopping Center P.U.D.; and

WHEREAS, the City Council deems it necessary to make such revisions, as contained in this ordinance; and

WHEREAS, all required public notices and public hearings for such revisions have been properly given and held; and

WHEREAS, such revisions have been referred to the Planning Commission for a recommendation as to the consistency of such revisions with the Comprehensive Land Use Plan;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Sanibel, Lee County Florida:

Section 1. Parts A and B of Article VI of the Sanibel Land Development Code are hereby amended to read as follows:

ARTICLE VI. PLANNED UNIT DEVELOPMENT  
PART A. ~~PURPOSE//PROPERTY//APPLICABILITY//~~  
PLANNED UNIT DEVELOPMENT STANDARDS FOR THE  
WULFERT POINT PROPERTY

Section VI.A.1. Purpose. This ~~article~~ part is designed to implement the terms of the amended settlement stipulation and mutual release dated July 31, 1990, in Case No. 77-1864-CA-JRT, Circuit Court, Twentieth Judicial Circuit, Florida, and to otherwise establish standards for development of the parcel referred to in said amended settlement stipulation and mutual release.

Section VI.A.2. Subject Property.

. . . . .

Section VI.A.3. Applicability.

. . . . .

Section VI.~~B/1/A.4.~~ Master Development Plan.

. . . . .

Section VI.~~B/2/A.5.~~ Density.

. . . . .

Section VI.~~B/3/A.6.~~ Permitted Uses.

. . . . .

Section VI.~~B/4/A.7.~~ Required Conditions.

. . . . .

Section VI.~~B/5/A.8.~~ Wastewater Treatment Facility.

. . . . .

Section VI.~~B/6/A.9.~~ General Conditions.

PART B. PLANNED UNIT DEVELOPMENT STANDARDS FOR THE  
WULFERT/POINT BAILEY'S SHOPPING CENTER PROPERTY

Section VI.B.1. Purpose and Intent.

The purpose and intent of this part is to provide a means to address special and unique circumstances surrounding the history of this lawful but nonconforming development, while also providing for protection of the public health, safety and welfare through the regulation of land use, yet providing some degree of flexibility in planning, designing and carrying out the intended purpose of the project. This is to be accomplished through the adoption and implementation of a Master Development Plan for this planned unit development together with appropriate conditions for development.

Section VI.B.2. Subject Property.

The subject property consists of two separate parcels totalling 13.1 acres located at the intersection of Tarpon Bay Road and Periwinkle Way and more particularly described in the legal description which is attached as Exhibit A.

Section VI.B.3. Master Development Plan.

The Master Development Plan is on file with the Sanibel City Clerk and is hereby incorporated into this Article and shall generally control the location of structures and other development on the subject property. A reduced scale copy is attached as Exhibit B.

Section VI.B.4. Density/Intensity.

A maximum of 54,091 square feet of commercial floor area is permitted on the 6.2 acres of commercially zoned land on the 10.7-acre parcel east of Tarpon Bay Road. The existing non-conforming employee housing facility, located on the east parcel, as shown on the Master Development Plan, which has thirteen (13) rooms for occupancy, remains a non-conforming use.

A maximum of eleven thousand four hundred twelve (11,412) square feet of commercial floor area plus parking, or fourteen (14) dwelling units, is permitted on the 2.4-acre parcel west of Tarpon Bay Road.

Section VI.B.5. Permitted Uses.

The following uses shall be permitted uses within the Bailey's Shopping Center PUD:

- a. Primary intended uses. The primary intended commercial uses shall be the same as the permitted uses contained within LDC subsection I.D.3.b., the TCG, Town Center General Commercial District of the Sanibel Land Development Code [See sub-subsection I.D.3.a.(1) for a listing of primary intended uses].
- b. Other permitted uses:
  - (1) Single-family dwellings.
  - (2) Duplex dwelling units.

(3) Residential cluster developments and multi-family developments, subject to the provisions of Section I.F.5.

(4) Occupancy of a dwelling unit by one (1) family.

(5) Public facilities.

c. Conditional uses:

The same conditional uses which are provided for in sub-subsection I.D.3.b.(3) of this land development code. [See sub-subsection I.D.3.a.(3) for a listing of conditional uses.]

d. Accessory uses:

Accessory uses customarily incidental to the uses listed above.

Section VI.B.6. Required Conditions.

a. Except where otherwise specifically provided for in this Article, the requirements of the Sanibel Land Development Code shall control.

b. For additional development within the Planned Unit Development:

(1) When the Planning Commission approves a development permit, the development permit shall constitute an amendment to the PUD Master Development Plan.



(2) If changes to these PUD regulations are required, they shall be processed as an amendment to this Article.

c. For On-site Parking:

(1) There shall be at least three hundred twenty-one (321) parking spaces which shall serve as shared parking for up to eighteen (18) separate commercial units in the 54,091 square feet of commercial floor area shown on the Master Development Plan.

(a) A development permit is needed in order to add or to eliminate parking on either the east or west parcel.

(b) A minimum of twenty-four (24) spaces shall be placed on the west parcel.

(c) However, the parking standards set forth herein are subject to review by the Planning Commission as part of the process of development of the west parcel.

(d) A vegetation buffer is not required between the underlying commercial and residential zones, under common ownership, within the Planned Unit Development.

(2) On-site parking for development of the 2.4-acre west parcel shall be in accordance with the Land Development Code standards in effect at the time of development. The owner of said parcel may choose to develop in either of the following options:

(a) The owner may set aside an area for development of additional parking spaces if later deemed necessary by the Planning Commission pursuant to Section I.E.23.b.(3); or

(b) Provide additional parking spaces as may be required, in a developed parking area on the west parcel to be used as accessory overflow parking for the shopping center on the east parcel.

d. The development of the west parcel shall, in the following respects, meet more stringent development standards than currently called for in the land development code:

(1) There shall be no traffic access to or from Sanibel Boulevard in an effort to minimize the traffic impact upon the residential area to the west.

(2) The landscaping adjacent to the residential area to the west shall meet requirements of

125% of the amount and size of vegetation called for by Section I.G.4. of the land development code in a further effort to improve compatibility with the residential area to the west.

- (3) The architectural character of any structure placed upon the west parcel shall be harmonious with the neighboring structures and the natural environment. No horizontal wall plane shall exceed sixty (60) feet. No vertical wall plane shall exceed twenty (20) feet. No roof plane shall exceed seventy (70) feet horizontal. The texture of exterior surfaces and architectural elements shall as nearly as possible represent the repetitive small-scale elements as found in native vegetation.

Section 2. Codification.

The City Manager is hereby authorized and directed to cause the amendment approved herein to be incorporated into the adopted Land Development Code.

Section 3. Conflict.

All ordinances and parts of ordinances in conflict herewith shall be and the same are hereby repealed. If any part of this ordinance conflicts with any other part, it shall be severed and

the remainder shall have full force and effect and be liberally construed.

Section 4. Severance.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by an court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.

Section 5. Effective Date.

This ordinance shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Lee County, Florida, this 2nd day of November, 1993.

AUTHENTICATION:

Martha A. Westall  
Mayor

Ray L. Pina  
City Clerk

APPROVED AS TO FORM:

Robert P. Pina  
City Attorney

11/2/93  
Date

<u>October 19, 1993</u>	First Reading
<u>October 22, 1993</u>	Publication Date
<u>November 2, 1993</u>	Second Reading

Vote of Councilmembers:

Janes	<u>aye</u>
Kain	<u>aye</u>
Miller	<u>nay</u>
Muench	<u>aye</u>
Westall	<u>aye</u>

Date filed with City Clerk: \_\_\_\_\_

NOV 3 1993

# EXHIBIT A

## LEGAL DESCRIPTION OF THE PLANNED UNIT DEVELOPMENT FOR THE BAILEY SHOPPING CENTER PROPERTY

DESCRIPTION  
PARCELS IN THE  
W-1/2 OF THE E-1/2  
AND IN  
SANIBEL GARDENS UNIT 4  
SECTION 26, T. 46 S., R. 22 E.  
CITY OF SANIBEL, LEE COUNTY, FLORIDA

The northwest quarter (NW-1/4) of the northwest quarter (NW-1/4) of the southeast quarter (SE-1/4) of Section twenty-six (26), Township forty-six (46) South, Range twenty-two (22) East.

### ALSO

Beginning at the southwest corner of the northeast quarter (NE-1/4) of Section 26, Township 46 South, Range 22 East; thence run easterly along the south line of said northeast quarter (NE-1/4) for four hundred sixty-eight (468) feet; thence run north, parallel to the west line of said northeast quarter (NE-1/4), to the south side of the County Road (County Road is officially named Periwinkle Way) running to Captiva; thence run southwesterly along said road to said west line of the northeast quarter (NE-1/4); thence run south along said west line to the Point of Beginning.

SUBJECT TO the right-of-way of the Tarpon Bay Road.

### ALSO

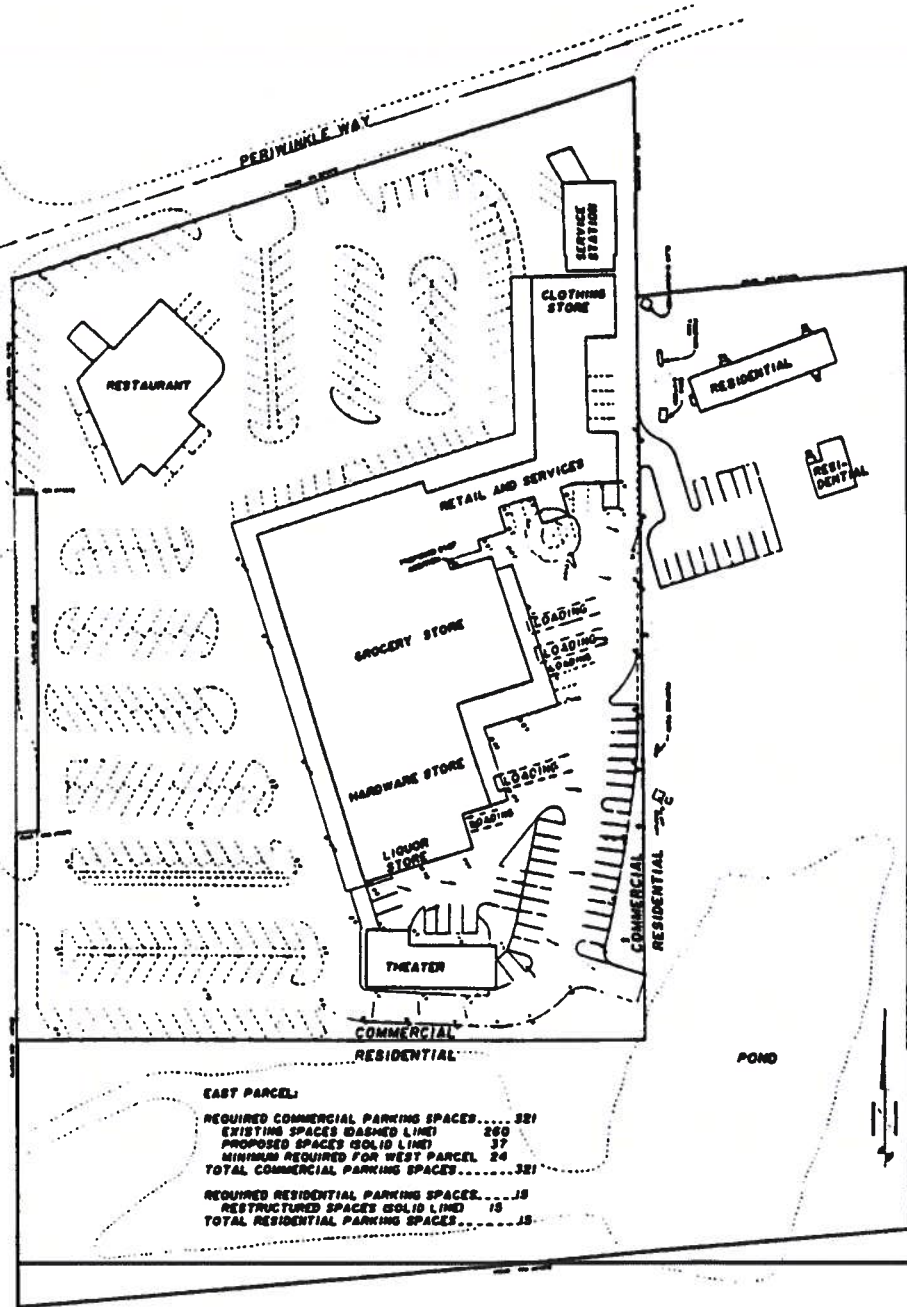
All of Block 31, Sanibel Gardens, Unit 4, Plat Book 7 at page 17. Lee County Records.



DEVELOPMENT OF THIS PARCEL  
REQUIRES PLANNING COMMISSION  
APPROVAL AS AN AMENDMENT TO  
THE MASTER DEVELOPMENT PLAN

**WEST PARCEL:**

A MINIMUM OF 24 PARKING SPACES ARE  
REQUIRED ON THIS PARCEL FOR THE  
COMMERCIAL DEVELOPMENT LOCATED  
ON THE EAST PARCEL.



**EAST PARCEL:**

REQUIRED COMMERCIAL PARKING SPACES..... 321  
EXISTING SPACES (DASHED LINE)..... 200  
PROPOSED SPACES (SOLID LINE)..... 37  
MINIMUM REQUIRED FOR WEST PARCEL..... 24  
TOTAL COMMERCIAL PARKING SPACES..... 321  
REQUIRED RESIDENTIAL PARKING SPACES..... 15  
RESTRUCTURED SPACES (SOLID LINE)..... 15  
TOTAL RESIDENTIAL PARKING SPACES..... 15

**MASTER DEVELOPMENT PLAN**

**FOR THE PLANNED UNIT DEVELOPMENT FOR THE BAILEY SHOPPING CENTER  
PURSUANT TO LAND DEVELOPMENT CODE, ARTICLE VI, PART B. SEC. 3.**

SECTION 26, T 46 S., R 22 E.

CITY OF SANIBEL  
LEE COUNTY, FLORIDA

RECORD DRAWING MARCH 30, 1983

*Joseph W. De...* 4416-N

*Joseph W. De...*

**JOHNSON ENGINEERING INC.**  
CIVIL ENGINEERS - LAND SURVEYORS

MARCH 20 1983 11:55 AM 20-00-00 17-00-00 L & L

**EXHIBIT B**

## Section 3.6.2. Future Land Use Element

*Pursuant to Section 163.3177, Florida Statutes.*

### Background Discussion

The data and analyses for this element of the *Sanibel Plan*, pursuant to *Section 163.3177(6)(a) and (7)(f), Florida Statutes* are summarized in this subsection.

Sanibel, located on a barrier Island, is approximately 18.1 square miles in area (11,600 acres). The principal use of over 60 percent of the area in the City of Sanibel is conservation use. More than eight square miles of the City are owned and managed by the federal government as the J. N. “Ding” Darling National Wildlife Refuge. The Sanibel-Captiva Conservation Foundation owns more than a square mile of additional land that is managed for conservation purposes.

The City of Sanibel is located entirely within the coastal floodplain. The City has participated in the Federal flood program since 1979. Flood and stormproofing regulations, which implement this program, are part of the Sanibel Land Development Code.

A Ports, Aviation, and Related Facilities Element is not required for the *Sanibel Plan*. There are no ports, harbors or aviation facilities in the City of Sanibel and there are no plans for any of these facilities. Air access for emergency vehicles is maintained.

There are no areas of designated critical State concern, pursuant to *Section 380.05, Florida Statutes*, within or adjacent

to the City of Sanibel. The Sanibel tidal wetlands are part of the Pine Island Sound Aquatic Preserve.

### Land Uses Adjacent to Sanibel

State submerged lands are the adjacent land use to the City of Sanibel. The quality of these surrounding waters has been deteriorating, in spite of the City’s extensive efforts and investments in eliminating virtually all septic tanks within the City. Rapid development in the Caloosahatchee River watershed, much of which is continuing to rely on septic systems for wastewater disposal, contributes to this degradation of water quality. This situation is only exacerbated by the water releases from Lake Okeechobee. The City is genuinely concerned about the condition of this “adjacent land use”.

The southern end of Captiva, adjacent to the Blind Pass Bridge, is public beach and low density single family residential use. Punta Rassa, adjacent to the Sanibel Causeway, is high density hotels and condominiums, a tennis stadium, a marina and dry dock boat storage and Conservation Lands - Wetlands. Lands along the McGregor Boulevard / Summerlin Road corridor, Sanibel’s hurricane evacuation route, are continuing to develop residential communities and commercial land use.

### Annexation/Expansion of Corporate Boundaries

In 1990, the City expanded its corporate limits to ½ mile offshore; into the coastal waters on State-owned submerged land. The City is considering further expansions of its corporate limits to include submerged land and the Sanibel Causeway.

### Population Estimates and Projections

The constraints imposed by the need for hurricane safety, adequate delivery of services and natural resource protection clearly demonstrate that unlimited future population growth would be hazardous to health, safety and welfare of the public. To minimize these hazards it is essential to limit the total number of dwelling units, including hotel and motel units, trailer spaces, condominiums, timeshare units, duplexes and single family houses to approximately 9,000 units.

It is important that the City of Sanibel manage future growth by maintaining current development controls, particularly intensity of use requirements, as build-out is approached, in order to prevent overcrowding of land and avoid undue concentration of population; to facilitate the adequate and efficient provision of transportation, water, sewage treatment, schools, recreational facilities, housing and other requirements and services; to ensure adequate hurricane evacuation capabilities; and to conserve, develop, use and protect natural resources.

Sanibel, incorporated in 1974, has reached a mature stage in its development. In 2012, over 92 percent of the dwelling units permitted on Sanibel, in accordance with the Development Intensity Map and implementing provisions of the Land Development Code, have already been constructed.

The population estimates and projections for the Sanibel Plan are provided in the following table.

Population Estimates and Projections			
<b>For Resident Population</b>			
<b>Year</b>	<b>2011</b>	<b>2017</b>	<b>2022</b>
Low Range	6,470*	6,550	6,700
Medium Range	6,470*	6,650	6,800
High Range	6,470*	6,750	6,900
<b>For Seasonal Population</b>			
<b>Year</b>	<b>2011</b>	<b>2017</b>	<b>2022</b>
Low Range	10,074	10,900	10,500
Medium Range	11,730	11,850	12,120
High Range	14,210	14,250	14,600
<b>For Functional Population</b>			
<b>Year</b>	<b>2011</b>	<b>2017</b>	<b>2022</b>
Low Range	16,544	16,800	17,200
Medium Range	18,200	18,500	18,920
High Range	20,680	21,000	21,500
Sources: *University of Florida, Warrington College of Business Administration, Bureau of Economics and Business Research - April 2011 Sanibel Planning Department			

These population projections use the same methodology as used in the 1989, 1997 and 2007 Plan updates. In summary, the functional population is estimated by assuming occupancy of:

2.0 people per dwelling unit for the low range projection;

2.2 people per dwelling unit for the medium range projection; and

2.5 people per dwelling unit for the high range projection.

During peak season, the seasonal population of the City of Sanibel is approximately twice as large as the resident population. For this reason, the functional population (comprised of the resident population and the seasonal population) is the important population to consider for the analyses and evaluation of service delivery systems and impacts of development.

In addition to the functional population, the City of Sanibel is impacted by the daily influx of day visitors. This population, which does not use overnight accommodations within the jurisdiction of Sanibel, is mentioned here because of its potential impact on service delivery and maintenance of adequate level of service standards.

On an average day in peak season, the City of Sanibel estimates that approximately 13,000 day visitors enter the jurisdiction. It would be difficult to project the number of day visitors for future years, but it is reasonable to expect that the number will increase over time.

For the planning purpose of analyzing and evaluating service delivery systems, the medium range functional population estimates and projections are utilized in this Plan. However, to retain consistency with development of the *Sanibel Plan*, the number of dwelling units may be utilized for the preparation of level of service standards.

### Land Use Projections

At build-out, an additional 640 dwelling units are projected to be constructed in the City of Sanibel. Approximately 540 of these units are expected to be located on existing lots within existing developments. The remaining 100 units are projected

to be located on the vacant and undeveloped land shown on the Existing Land Use Map.

Approximately 35,000 square feet of additional commercial floor area can be developed in the City of Sanibel, in accordance with the Commercial District Map and regulations of the Land Development Code.

#### Approximate Acreage of Land Uses - 2012 and Buildout -

Land Use Category	Acreage %		Acreage %	
Conservation Uses	7350	63.4	7475	64.4
Residential Uses	2610	22.5	2700	23.3
Vacant/Undeveloped Land	245	2.1	0	0
Recreation Uses	590	5.1	600	5.2
Roadways	500	4.3	500	4.3
Commercial Uses	125	1.1	130	1.1
Public Facilities	65	0.6	65	0.6
Other Uses	115	1.0	130	1.9
Industrial Uses	-	0.0	-	0.0
Agricultural Uses	-	0.0	-	0.0
<b>TOTAL</b>	<b>11,600</b>	<b>100</b>	<b>11,600</b>	<b>100</b>

Note: Existing (2012) vacant lots subdivided for single family dwelling units are included in the Residential Land Use Category. There are approximately 475 acres of multifamily development included in the Residential Land Use Category. The Other Uses category includes churches, marinas, theaters and the like.

Source: Sanibel Planning Department

The estimations of acreage were obtained from the 2012 Existing Land Use map. The method of calculation was improved and the resultant differences from the 2006 Existing

Land Use Table can be attributed to that. There has been very little change in the 2006 Existing Land Use Map. Acquisitions by the Sanibel-Captiva Conservation Foundation of the Bailey Homestead site and the Bob Wigley Preserve (55 acres) have increased the amount of Conservation Uses. There was no increase in acreages in any other land use category. Although preliminary plats have been approved for three residential subdivisions (47 lots), this acreage is categorized as vacant since none of these subdivisions has obtained construction plan approval. The increases or decreases in estimated acreages of the land use categories is the result of improved (corrected) calculations of these areas.

In 2012, the City has practically reached “build-out”. Well over 90% of the development permitted in the City by the Future Land Use Map has occurred. The City of Sanibel has matured to a redevelopment phase.

Since the 2005 Evaluation and Appraisal of the *Sanibel Plan*, the City has embarked on an extensive Redevelopment Planning Work Program.

As part of the City’s Redevelopment Planning Work Program, the following activities have been accomplished.

In 2006, the City adopted comprehensive land development regulations that allow building-back of the existing number of dwelling units from the damage caused by a natural disaster.

In 2007 and 2008, regulations to address formula retail uses, the size of commercial buildings and units and outdoor dining at restaurants were added to the Land Development Code. A Commercial District Market Analysis and Redevelopment Planning Policies were

prepared for the Periwinkle Way West Commercial District. Architectural and Site Planning Design Guidelines were also prepared for the Periwinkle Way West Commercial District.

In 2010, the City analyzed residential land use and zoning regulations to ensure that neighborhood and community compatibility is retained when new, expanded and redeveloped single family dwellings are built.

In 2011, the City adopted comprehensive land development regulations that allow redevelopment of the existing number of units in the Resort Housing District, provided that the resort use of the property is retained.

The following items remain in the City’s Redevelopment Planning Work Program:

Redevelopment of nonconforming resort housing uses located outside the Resort Housing District.

Redevelopment of commercial uses in Commercial Districts.

Redevelopment of residential uses in Residential Districts. This analysis will include an evaluation of a small number of single family dwellings that are located on lots that are “unbuildable” if vacant.

The continued recovery and maintenance of the local economy, is needed to restore and maintain property values in both the residential and commercial sectors, including resort housing.



The community's interest in the development of a Town Center/Town Square, considered in the Plan for Community Design, has evolved. The Master Parks and Recreation Plan recognizes the community benefit in providing a place to serve as a focal point for community activity, special events and informal assembly.

The natural Gulf Beach, including its waters, is recognized for its significant contribution to the character of the community. Offshore areas, such as Captiva, the Causeway islands and other near-Island lands, and the waters of San Carlos Bay, Pine Island Sound and the Caloosahatchee River also impact the character of the community. The maintenance of the character of the community is an important component of the *Sanibel Plan*.

A City Council goal is to undertake a study of the carrying capacity of Sanibel's beaches to evaluate current policies, plans, regulations and management strategies and advance recommendations to maintain and improve the Island's natural beach for its value to wildlife and contribution to the community's character.

### Permitted Uses

The use of land and buildings in the City of Sanibel should be determined by the capacity of natural and human-made environments to accommodate such uses without hazard to health, safety and welfare of the citizens and visitors to the City. The determination of permitted uses also should take into account existing patterns of development, the need to maintain compatibility with existing uses and the desire to retain the character of the community.

The *Sanibel Plan* provides that the type and intensity of future land uses permitted will be determined by the capacity of the

City to accommodate further development in an orderly manner. In addition to these overall considerations, environmental factors intrinsic to each ecological zone, compatibility with existing land uses, availability of adequate human support systems and compatibility with all elements of the Plan influenced the choice of permitted uses and development intensity.

The following chart provides a guide for permitted uses established in the Land Development Code.

Permitted Use by Ecological Zone	
<b>Gulf Beach:</b> Conservation Passive Recreation Beach Accessways	<b>Lowland Wetlands:</b> Conservation Passive Recreation Public Facilities Agriculture
<b>Bay Beach:</b> Conservation Passive Recreation	<b>Low Intensity Residential:</b> Single family detached
<b>Mangroves:</b> Conservation Passive Recreation Very Low Intensity Residential: Single Family detached	<b>Upland Wetlands:</b> Conservation Passive Recreation Public Facilities Agriculture
<b>Upland Wetlands: (Cont'd.)</b> Low Intensity Residential: Single family detached, Duplex and limited Multi-Family in designated areas	<b>Blind Pass:</b> Conservation Passive Recreation Public Facilities Low Intensity Residential: Single Family detached, Duplex and limited Multi-family
<b>Mid-Island Ridge:</b> Conservation Active & Passive Recreation Agriculture Public Facilities Low and Moderate Intensity Residential: Single family detached Duplex, and Multi-family	<b>Commercial Uses*:</b> In designated areas of Altered Land, Mid-Island Ridge, Blind Pass, and Upland Wetland Zones
	<b>Environmentally Sensitive Lands*:</b> Residential Uses are Prohibited

Permitted Use by Ecological Zone (Cont'd.)	
<b>Resort Housing Uses*:</b> In designated areas of Gulf Beach Ridge and Altered Land Zones	<b>Wetlands Conservation Lands*:</b> In designated areas of the Fresh-water Management Area
<b>Gulf Beach Ridge:</b> Conservation Active & Passive Recreation Public Facilities Residential: Single family detached, Duplex and Multi-family	<b>Altered Land:</b> Conservation Active & Passive Recreation Agriculture Public Facilities Low and Moderate Intensity Residential: Single family detached Duplex and Multi-family
*Permitted Uses for these overlay Zoning Districts (see Article 4. Official Maps) are established in the Land Development Code.	
Source: 1976 Sanibel Comprehensive Land Plan, as amended.	

### Plan for Permitted Uses

This section of the Plan discusses the general principles from which future permitted uses are derived. It is the intent of the Plan to allow the continuation of existing uses in the manner set out in the Land Development Code. The regulations controlling permitted uses are set forth in the Land Development Code. The Land Development Code may permit certain conditional uses in various ecological zones, which uses are not specified herein, provided such uses are of a type and intensity consistent with the intent and purpose of the Plan, and provided such uses are limited and controlled by performance standards sufficient to accomplish the objectives of the Plan.

### Provisions of the Plan

1. Residential uses are prohibited in Preservation Districts (The Gulf Beach and Bay Beach Ecological

Zones) and in the Environmentally Sensitive Lands Conservation District. In addition to conservation use, passive recreation is permitted in these Districts. In clarification of activities that constitute or that are compatible with passive recreation uses, the City prohibits horseback riding on the beach.

Lawfully existing residential uses located in the Gulf Beach and Bay Beach Zones are permitted to continue that use and to build-back that structure and reestablish the residential use if the structure is substantially damaged by a natural disaster.

Lawfully existing accessory swimming pools and accessory structures are permitted to be redeveloped in the Gulf Beach and Bay Beach Zones, subject to the criteria in the Land Development Code.

2. Continue to restrict permitted uses in certain residential areas to single family residential structures.
3. Prohibit accessory uses that will significantly increase the intensity of the permitted use.
4. Restrict accessory uses that will have a deleterious effect on the carrying capacity of the beach.
5. Prohibit timeshare dwelling units, including fractional ownership, outside the Resort Housing District.

## Development Intensity

The constraints imposed by the need for natural resources protection, hurricane safety and adequate delivery of services, clearly demonstrate that unlimited future population growth and unregulated use of land would be hazardous to health, safety and welfare of the public. To minimize these hazards and to maintain the character of the community, it is essential to limit the total number of dwelling units, including hotel and motel units, trailer spaces, condominiums, time share units, duplexes and single family houses to a total of 9,000 units. The plan for residential development intensity adopted in 1976 contemplated approximately 7,800 dwelling units if the City built out in conformance with all the regulations in effect with adoption of the 1976 Comprehensive Land Use Plan.

If dwelling units are kept within a range of approximately 9,000 units, the water consumption and sewage generation can be handled in a manner consistent with the public health, safety and welfare, based on present knowledge.

Moreover by keeping the number of persons using the Island to these levels, it should be possible with careful planning to safeguard the lives of the people on Sanibel and Captiva in case of all but the most extreme hurricanes.

The formula used to allocate densities throughout the City in the 1976 Comprehensive Land Use Plan is described in the appendix to the March 1976 draft of the Plan. That formula took into account the municipal economy, physical land capability and the adequacy of human support systems including the proximity of land to them. Policies were developed that directed future growth to areas where services are available. Environmentally valuable or hazardous areas were proportionately allocated less growth in development intensity.

The formula also took into account capital investments already made to prepare land for development and the degree to which a project or subdivision was improved and built-out. The result of this process allocated 2,000 dwellings across the island in densities ranging from one dwelling unit per 33 acres to five dwelling units per acre, depending upon the location, ecological zone and the extent of improvement to the land. Once the units were allocated under the formula, the Planning Commission made adjustments taking into account consideration of existing development patterns and the extent to which existing subdivisions and projects are consistent with the goals, objectives, and policies of the Comprehensive Plan. In some cases adjustments were made to ensure that the density allocation would not permit higher densities than would be consistent with the character of existing residential areas.

No development is permitted in the Gulf Beach and Bay Beach Preservation zones but these areas were allocated a residential density, all of which must be built landward of these Preservation Zones.

Because of increases granted in residential development intensity between 1976 and 1988, which increased the potential number of dwelling units from approximately 7,800 to approximately 9,000, further Island-wide increases in density are not readily supportable. However, some modest adjustments in density, either increases or decreases, may need to be considered on a case-by-case basis to achieve other objectives of the comprehensive land use plan. The following factors indicate why Island-wide increases in density are not generally supportable in the upcoming planning period:

- Changes have already been made by City Council, where warranted, to residential densities during 1976-1988. Examples include relief granted to

owners of pairs of contiguous lots meeting certain standards, increased residential densities along Periwinkle Way to provide alternatives to commercial development, and adjustments made as a result of re-mapping the City's ecological zones in 1979, and where unique circumstances relating to a parcel were found to exist that had not been fully considered at the time the land use plan was adopted

- During peak season, Periwinkle Way, the Island's main artery, is used by more vehicles than many residents and property owners find acceptable
- The capability of the City to achieve the objectives outlined in the Safety Element of the Plan, particularly to provide the opportunity for everyone to evacuate safely
- The goals of the Comprehensive Plan are aimed at the conservation of natural resources. An inventory of vacant land in 2005 indicated that almost two-thirds of the vacant land on the Island is located in either the Mangrove, Lowland-Wetland or Upland-Wetland Ecological Zones, which are not readily developable unless the environmental precepts of the Plan are set aside
- Hurricanes pose a significant threat to lives and property on the Island most vulnerable to storm damage from sustained high winds, scouring due to wave action, battering from floating debris and flooding due to storm surge
- The electors have amended the City Charter to require that a majority of the electors voting in the

election is necessary to approve increases in residential density

There are circumstances, however, under which residential density could be increased for a specific site if mitigating considerations are found to exist that would outweigh potential drawbacks and work toward achieving other objectives of the *Sanibel Plan*. These are:

- Where opportunities are provided for below market rate housing
- To implement the Plan for Commercial Development by providing alternatives to commercial development through increased residential densities
- 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
- Where unique circumstances are found to exist on a parcel, which had not been fully considered at the time of the initial adoption of the Development Intensity Map in 1976
- Where there is a resultant, overall Citywide decrease in the number of permitted dwelling units, provided that the density decrease does not originate on lands in the Environmentally Sensitive Lands Conservation District

Intensity of non-residential uses are measured in a number of ways, including number of vehicular trips generated, number and type of uses located on a parcel, floor area, size and number of structures, hours of operation, water consumption, wastewater generation, and the like. Regulating intensity of



use in commercial districts and for all non-residential land uses is important:

- To assure that adverse impacts on adjacent lands and developments are minimized
- To assure that sufficient land area is available to accommodate the parking, drainage, wastewater disposal and service needs of the commercial development
- To assure that enough native vegetation for the development is preserved or planted to have a pleasing appearance to both passersby and customers
- To assure that the level of activity is in keeping with the maintenance of the character of the community

### Plan for Development Intensity

The distribution of residential development intensity shall be in accordance with the density allocation on the Development Intensity Map of this Plan. The implementation of the Development Intensity Map is incorporated in the Land Development Code. Modern Platted Subdivisions were identified in the initial *Sanibel Plan* and that designation is applied in the method of calculating permitted density. A listing of Modern Platted Subdivisions established in the initial *Sanibel Plan* is provided in the following chart.

#### MODERN PLATTED SUBDIVISIONS

(Residential Subdivisions Developed Prior to July 8, 1976)

1. Sanibel Estates	25. Sanibel Bayous
2. Anchors Aweigh	26. Dinkins Bayou
3. Shell Harbor	27. Del Segá
4. Shell Basket	28. Castaways Estates
5. Sanibel Shores	29. Caloosa Shores
6. Beachview Country Club	30. Leisure Acres
7. Sanibel Center	31. Belle Meade
8. Lagoon Estates	32. Windrow
9. Sanibel Lake Estates	33. Sanibel River Estates
10. Southwinds	34. Sanibel Pines
11. Periwinkle Properties	35. Sanibel Isles
12. Kearns	36. Water Shadows
13. Palm Lake	37. Gumbo Limbo
14a. Lake Murex	38. Sanibel Harbours
14b. Little Lake Murex	39. O. L. Richardson
15. Bright Water	40a. Dunes - Phase 1
16. Ranchos Way	40b. Dunes - Phase 2
17. Seaside	41. Briant Michigan
18. Sea Oats	42. Sedgemoor
19a. East Rocks	43. Sanibel Woodlands
19b. West Rocks	44. Cardinal Ridge
20. Terrill Ridge	45. Poinciana Circle
21. Gulf Pines	46. Sawyers
22. Gulf Shores (f/k/a Tahiti Shores)	47. Los Conchas
23. Chateau Sur Mer	48. S. B. Woodring's
24. Tradewinds	49. Betts

Source: 1976 Plan, as amended.

### Provisions of the Plan

1. Residential density computations are based on the assumption that dwelling units will have an average occupancy of 2.2 persons per unit. To the extent that dwelling units are of a type or size that will increase the average occupancy rate, the permissible number of units may vary from the number shown on the Development Intensity Map in a manner to be determined by implementing development regulations in the Land Development Code.

2. By such implementing development regulations, the City Council may also permit residential densities in excess of those shown on the Development Intensity Map as incentives to the provision of below market rate housing.
3. Through implementing ordinances, to be incorporated into the Land Development Code, the City Council may also permit development of lands in excess of the residential densities shown on the Development Intensity Map in order to recognize vested rights and constitutional limitations with respect to lands individually owned prior to adoption of the initial Sanibel Comprehensive Land Use Plan.
4. To maintain the stock of short-term occupancy units in the City, existing hotels, motels and resort condominiums that are rehabilitated or redeveloped in accordance with the *Sanibel Plan* and Land Development Code are allowed to maintain up to their existing density, provided that redeveloped resort accommodations continue the short-term occupancy use of that prior development.
5. Existing dwelling units that are substantially damaged by a natural disaster are allowed to build-back.
6. During this planning period, the City will continue to pursue its Redevelopment Planning Work Program. The Redevelopment Work Program has addressed, on an Island-wide basis, build-back following substantial damage by a natural disaster. The Redevelopment Work Program has also addressed redevelopment in the Resort Housing District. The

Redevelopment Work Program includes review of nonconforming resort housing uses located outside the Resort Housing District, review of redevelopment in Commercial Districts and the review of redevelopment in Residential Districts. The Redevelopment Work Program will continue to evaluate how redevelopment or modernization of existing nonconforming properties can balance property rights with environmental, public safety and community welfare considerations within the framework of the *Sanibel Plan*.

7. The plan for controlling the intensity of commercial uses has several components. The first is to measure intensity of use as a floor area ratio, defined as the ratio of floor area to parcel size. In order to provide incentives in the development regulations for achieving planning objectives, the floor area ratios (FAR) reflect the need to:
  - Differentiate development intensity between Periwinkle Way and the Town Center District and Palm Ridge Road area so as to reduce the impact of commercial development on turning movements and traffic flow on Periwinkle Way and to preserve the ambience of Periwinkle Way
  - Limit creation of additional commercially zoned lands which can lead to commercial overbuilding
  - Limit the intensity of conditional uses to the extent that these uses generate traffic impact to a significantly greater extent than permitted uses

- Limit the intensity of non-residential uses, permitted to be located in residential areas, to the extent that these uses are not disruptive of the residential character of the surrounding community
- Use of the residential densities permitted on lands used for alternative, non-residential conditional uses, shall be reduced proportionately to the intensity of use of the non-residential use on that parcel

### Commercial Development

For more than 35 years, the *Sanibel Plan* and its Land Development Code have been directed to ensure that the commercial sector of the community serves and blends in with the residential sector and natural resources of the community. Neither the commercial sector nor any of its components should be out of character with the Vision Statement of this Plan.

### Commercial Districts

Unlike most communities, Sanibel is located on a relatively isolated barrier island and therefore attracts almost no casual travelers passing through on their way elsewhere. Thus, Sanibel needs fewer of the typical roadside types of commercial use than most communities its size.

Sanibel attracts a variety of tourists with special interests, such as shell collectors, beachgoers, birdwatchers, fishermen, tennis players, etc. Because few other communities attract a similar mix of tourists, it is difficult to provide a pattern on which commercial land uses can be based.

Because of the potential for retail overbuilding and its related adverse impacts, the potential supply of retail space has been reduced, consistent with reasonable demand considerations. Because of limited retail demand relative to the existing retail supply and the intent to preserve the character of the community, conditional use standards have been established for formula retail uses.

Incentives and disincentives have been incorporated into the Future Land Use Map and land use regulations to guide commercial development into clusters, rather than in a continuous commercial strip. Several commercial areas (nodes) along Periwinkle Way that are consistent with the City's existing land use pattern were placed in one of the City's three Commercial Zoning Districts, including outlying locations at the east and west ends of the Island.

The City's commercially-zoned lands, depicted on the Commercial Zoning Map of the Future Land Use Map series, consists of three Commercial Zoning Districts -

The GC - General Commercial District

The TCG - Town Center General Commercial District

The TCL - Town Center Limited Commercial District

The purpose of the General Commercial District is to provide for clusters of commercial development along Periwinkle Way, rather than a continuous strip. This district provides opportunities for a wide range of commercial activities that primarily serve islander needs. The General Commercial District is designed to permit low intensity commercial development with a wide variety and mixture of retail, office and service

uses, with integrated residential uses offered as an alternative to commercial use.

The purpose of the Town Center General Commercial District is to provide for commercial and mixed use development in the geographical center of the City. Because of this areas relatively good access from Periwinkle Way, Palm Ridge Road and Tarpon Bay Road and proximity to civic, cultural and governmental uses, the Town Center General Commercial District is a preferred location for retail and mixed use development and therefore higher floor area ratios are permitted. The Town Center General Commercial District is designed to provide a wide variety and mixture of retail, office and service uses, along with integrated residential uses of low and moderate intensity.

The purpose of the Town Center Limited Commercial District, like the Town Center General Commercial District, is also to provide for commercial and mixed-use development in the geographical center of the City. Because of this areas relatively good access from Periwinkle Way, Palm Ridge Road and Tarpon Bay Road and proximity to civic, cultural and governmental uses, the Town Center General Commercial District is a preferred location for retail and mixed use development and therefore higher floor area ratios are permitted. The Town Center Limited Commercial District is designed to provide an opportunity for a variety and mixture of retail, office and service uses which support the establishment and retention of island and resident serving commercial uses and discourage commercial uses that cater principally to the day visitor to the City.

Specific permitted and conditional uses as well as required conditions (such as, maximum floor area ratio, building height, setbacks and limitations on coverage with impermeable

surfaces) for each of the three Commercial Zoning Districts are contained in the Land Development Code.

Alternative land uses to commercial development on Periwinkle Way, between the commercial nodes, have been encouraged. These land use alternatives are needed in order to discourage the expansion of commercial development outside designated commercial districts.

Additional retail development is discouraged on Periwinkle Way and encouraged in the Town Center District (the Palm Ridge Road area) because of the latter area's relatively good access from Periwinkle Way, Palm Ridge Road and Tarpon Bay Road and because it is the geographical center of the Island. Redevelopment planning policies have been prepared for the Periwinkle Way West Commercial District.

On land located outside designated Commercial Districts, opportunities have been provided for development of special uses that are generally not either retail or office in nature, in instances where their development will not negatively impact adjoining land uses. The purpose of this district is to enable such special uses opportunities to locate on Sanibel in order to provide convenience services to Island residents and businesses.

The Special Use Districts that have been established as part of the Ecological Zones Map are:

The Island Water Association plant and administrative facilities

The Sanibel Marina

The San-Cap Medical Clinic

The Beachview Golf Course



Opportunities have been provided for the provision of limited amounts of residential development in commercial zones, under controlled conditions, to provide opportunities for affordable housing and offer additional alternatives to commercial development.

The City desires to maintain a balance between the residential and resort (tourist) segments of the community so that Sanibel remains an attractive and desirable residential community. It is apparent that the commercial developer views Sanibel as primarily a non-resident commercial market. And, left unregulated, this trend can be expected to continue to the point that Sanibel could become a destination shopping area, contrary to public desires.

The suitability of the Periwinkle Way corridor for residential development has been recognized, but the pressure for additional commercial zoning and development can be expected to continue. Undertaken as part of the City's Redevelopment Planning Work Program, an updated analysis of Sanibel's environmentally based market and economy supports the implementation of the Plan for Commercial Development.

The benefits that accrue to the community's public health, safety and welfare, through implementation of the Plan for Commercial Development, are:

- The development of an attractive residential environment that maintains the ambience and aesthetic charm of Sanibel
- The reduction of the likelihood of retail overbuilding
- The improvement of traffic flow by reducing the potential for curb cuts and turning movements on

Periwinkle Way likely to result from unchecked commercial development

The City has addressed the compatibility of commercial and non-residential structures with the character of the community.

### **Resort Housing**

Another type of income producing use in the City of Sanibel is resort housing. Prior to the construction of the Causeway, such housing took the form of small motels and cottages and beach resorts. The construction of the Causeway brought more and bigger beach resorts.

The late 1960s saw a State-wide boom in the construction of condominiums extending into the early 1970s. Lee County permitted the construction of numerous condominium complexes some of which were constructed at locations dangerously close to the water and built at densities that detracted from the character of the Island as a desirable residential environment. Meanwhile, other condominium projects moved more and more into the resort hotel business with widely advertised short-term rentals.

These dramatic and rapid changes in the nature of the tourism business on Sanibel have had numerous impacts on the environment. The entire character of the community as a low-density settlement compatible with the natural environment was threatened. The unique environmental character of the Island that provided the primary attraction for both tourists and permanent residents was then in danger.

The protection of the character and long-range base of the tourism industry demanded a significant reduction in the potential density of resort housing accommodations. The City

had no desire and little capacity to cater to tourists who preferred to vacation in a high-density, urbanized type of environment. Many other areas in this State willingly provide for and eagerly solicit the trade of such visitors. Sanibel offers unique charms, for which some people will pay a premium while they exist. However, if these unique charms are destroyed by overuse, the City will have little to offer.

Many of the finer beach resorts in Florida and throughout the world have been developed at low densities of five or six units per acre. Such densities permit the provision of amenities and services that will attract more selective tourists willing to pay a premium for Sanibel's special character. Higher densities typically contribute to reductions in the carrying capacity of the beach for use by wildlife.

With few exceptions, resort housing uses are permitted only in the Resort Housing District.

In order to maintain the residential character of the resort housing area and to preserve to the maximum extent possible the natural features of this area, commercial development should be permitted only to the extent that it complements and primarily serves the needs of the residents of resort housing on-site without disrupting the preservation of the scenic beauty of the natural beach.

Resort housing developments, particularly the larger ones, depend in large part on non-guests to help support their accessory commercial uses, especially restaurants. Had resort housing developments been permitted to continue supporting their commercial developments by providing service to non-guests, a further expansion of Sanibel's commercial districts could have resulted. The City has modified its regulations for future commercial development in the Resort Housing District to

assure that the type and size of commercial uses permitted are supportable by the resort's guests.

Existing and new commercial developments located in the Resort Housing District need to be compatible with the *Sanibel Plan's* objectives for scenic preservation and maintenance of the character of the community.

Only 12 resort units have been built since the mid-1980s. The City has had success in limiting resort housing to the Resort Housing District and thereby protecting non-resort residential areas. With the attainment of an appropriate balance between resort housing uses and non-resort housing uses, the City has provided means to retain and redevelop existing resort housing uses.

Although additional resort development is not anticipated, the City analyzed existing conditions and trends associated with the maintenance, improvement and redevelopment of resort properties and took steps to retain existing dwelling units in motels, hotels and inns so that when build-back or redevelopment occurs on these properties, the properties are redeveloped as motels, hotels and inns. It is in the interest of both residents and the business community to maintain a block of accommodations available for short-term occupancy. Visitors using these accommodations provide customers or businesses and potential buyers for realtors and home sellers. A motel, hotel or resort complex can build-back the existing number of units if the buildings are substantially damaged by a natural disaster. A motel, hotel or resort complex is allowed, with appropriate restrictions, to redevelop up to the existing number of units, if the number of units exceeds the number allowed by the Development Intensity Map.

### Provisions of the Plan for Commercial Development

1. Encourage, through the Plan for Commercial development, implementation of the Economic Assumptions of the Plan.
2. Require commercial uses to locate in the areas designated as Commercial Districts on the Commercial Zoning Map and to develop in conformance with development regulations set forth in the Land Development Code and the guidelines established in the Plan for Commercial Development.
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.
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.
5. In an effort to maintain a proper balance between the resident-serving and resort (tourist) segments of the commercial sector of the community, the City has amended its commercial land use regulations. These regulations establish and implement the following:
  - A maximum percentage of commercial floor area (balance and mix of businesses) occupied by formula retail stores
  - A limit on the size of specific commercial retail units
  - A limit on the size of commercial buildings
  - A requirement that developments of new commercial centers and redevelopments of existing commercial centers, that contain more than 12,000 square feet of retail floor area, must demonstrate that no adverse economic or other consequence would result to this unique Island community from the development or redevelopment of the center
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.
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*.
9. 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.
10. Attempt to maintain a balance between various types of commercial activities by discouraging commercial development that exceeds the amount that can be supported on Sanibel based on retail market analysis, the capabilities of human support systems, hazard mitigation objectives, and other planning considerations. As part of the City's Redevelopment Planning Work Program, an update of the City's environmentally based market and economic analysis was completed in order to guide commercial development.
11. Designate land for commercial development sufficient to serve the needs of residents and guests of the resort housing segment of the community, and adopt development standards to assure opportunities are available for a wide range of commercial activities to serve the needs of the resident and seasonal population.
12. Retain development standards that take into account the full range of factors which contribute to intensity of use.
13. Restrict future commercial uses in the Resort Housing District, including the size of these uses, to only those that are designed to be entirely supportable by the resort's guests and that do not disturb the scenic beauty of the natural beach or cause degradation of the natural environment. Commercial uses in the Resort Housing District shall not diminish the carrying capacity of the beach for use by wildlife.
14. Retain development standards that assure commercial developments contribute to maintenance of the character of the community by maintaining substantial vegetation buffers and by presenting architectural features that are compatible with the community as a whole.
15. The City desires to retain and improve the historical and visual character of the Commercial Sector, to wit:
  - Implement development standards which assure commercial structures do not employ what is often referred to as "cookie-cutter" architecture and do employ architecture that contributes to the maintenance of historic, visual, scenic and architectural



character of the commercial sector of the community

- Large commercial buildings shall be designed to appear as a group of buildings that vary in scale and size
- Commercial buildings shall not appear monolithic
- Commercial buildings shall have architectural features and patterns that provide: visual interest from the perspective of the pedestrian, bicyclist and motorist appear to reduce building mass and recognize and respect local character and site conditions
- Large facades, both horizontal and vertical, shall be broken up to present a more human scale, particularly to the public right-of-way view and the view of nearby residential uses

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.

## Preservation and Community Design

The Community Design subsection establishes the physical design policies of the City that will complement the other elements of the Plan, pursuant to *Section 163.3177 (7)(f), Florida Statutes*.

The Vision Statement of the *Sanibel Plan* states:

*"Sanibel is and shall remain a small town community whose members choose to live in harmony with one another and with nature; creating a human settlement distinguished by its diversity, beauty, uniqueness, character and stewardship."*

...

*Character: The City of Sanibel chooses to preserve its rural character in its setting within an urbanizing county. 'Auto-urban' development influences will be avoided. The commercialization of natural resources will be limited and strictly controlled."*

The Vision Statement further states that:

*". . . the dominant principle is Sanibel's sanctuary quality. Sanibel shall be developed as a community only to the extent to which it retains and embraces this quality of sanctuary. Sanibel will serve as attraction only to the extent to which it retains its desired qualities as sanctuary and community."*

Prohibitions on formula restaurants and on drive-ins and drive-throughs at eating places are examples of land development regulations intended to maintain the character of the City of

## **PART I CHARTER<sup>1</sup>**

### **ARTICLE I. POWERS**

#### **Section 1.01. Powers of the City of Sanibel.**

The city known as "Sanibel", shall have all powers possible for a city to have under the Constitution and laws of the state as fully and completely as though they were specifically enumerated in this Charter unless prohibited by or contrary to the provisions of this Charter; and in addition to the foregoing and not by way of limitation, the city shall have the following powers:

- (a) To organize and regulate its internal affairs and to establish, alter, abolish and terminate, such termination to be only for cause, offices, positions and employments, including citizen board positions, and to define functions, powers and duties, and fix their term, tenure, and compensation.
- (b) To adopt, amend and repeal such ordinances, resolutions and codes as may be required for the good government of the city, including local police ordinances carrying penalties, zoning ordinances, housing codes, building and related technical codes, business regulations, and ordinances relating to and regulating the sale of alcoholic beverages.
- (c) To prepare and adopt comprehensive plans for the development of the city, including provision for subdivision regulation, environmental protection, pollution control, community facilities and all other related activities.
- (d) To sue and be sued; to have a corporate seal; to contract and be contracted with; to buy, receive by gift or devise, sell, lease, hold and dispose of real and personal property for any public purpose; to have the power of eminent domain and to acquire, by condemnation or otherwise, all private lands, riparian and other rights, necessary for public purposes and improvements.
- (e) To raise funds by taxation and to make such levy upon the taxable property in the City of Sanibel as will provide funds necessary for the operation of the city and for such other purposes as may be provided in general law, pursuant to the general laws of Florida.
- (f) To appropriate and expend money for any public purpose.
- (g) To borrow money for public purposes.
- (h) To levy special or local assessments for local improvements and to hold liens for public improvements.

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<sup>1</sup>Editor's note(s)—Printed herein is the Charter of the City of Sanibel, Florida, as adopted by Laws of Fla., ch. 74-606. Amendments to the Charter are indicated by a parenthetical history note following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citation to state statutes has been used. Additions made for clarity are indicated by brackets.

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- (i) To license and tax privileges, business, occupations and professions carried on and engaged in within the corporate limits of the city and to classify and define such privilege businesses, occupations and professions for the purpose of taxation.
  - (j) To do and perform all other acts as seem necessary and best adapted to the improvement and general interest of the city, and the protection of the health, life and property of the city and its inhabitants, not contrary to the laws of Florida.

(Ord. No. 83-23, § 1, 9-7-1982/11-16-1982)

State law reference(s)—General municipal powers, F.S. § 166.021; building construction standards, F.S. ch. 553; planning generally, F.S. § 163.3161 et seq.; eminent domain, F.S. § 166.401 et seq.; taxation generally, F.S. § 166.201 et seq.; borrowing generally, F.S. § 166.101 et seq.; local improvements, F.S. ch. 170; foreclosure of tax and special assessment liens, F.S. ch. 173; occupational license taxes and limitations thereon, F.S. ch. 205.

### **Section 1.02. Construction of powers.**

The powers of the city under this Charter shall be construed liberally in favor of the city.

### **Section 1.03. Intergovernmental relations.**

The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one (1) or more other municipalities, state or local governments or civil divisions or agencies thereof, or the United States or any agency thereof.

State law reference(s)—Intergovernmental programs, F.S. ch. 163.

## **ARTICLE II. CORPORATE LIMITS<sup>2</sup>**

### **Section 2.01. Description of corporate limits.**

The following area shall constitute the corporate limits of the City of Sanibel:

A corporate limit line lying offshore from Sanibel Island in portions of Township 46 South, Ranges 21, 22 and 23 East, Lee County, Florida, which line is described as follows:

From the corner common to Sections 17, 18, 19 and 20, Township 46 South, Range 23 East, run easterly along the line common to said Sections 17 and 20 to a point 2,640 feet offshore in San Carlos Bay from the mean high tide line to Section 20 and the point of beginning. From said point of beginning, run easterly 2,640 feet offshore from the mean high tide line of Sanibel Island, to the easterly point of said island and the mouth of said San Carlos Bay; thence run southwesterly, westerly and northwesterly, 2,640 feet offshore in the Gulf of Mexico from the mean high tide line of Sanibel Island, to an intersection with the centerline of Blind Pass; thence run northeasterly along said centerline to the waters of Pine Island Sound at a point 2,640 feet offshore from the mean high tide line at Wulfert Point in Section 2, Township 46 South, Range 21 East; thence run southeasterly in Pine Island Sound and San Carlos Bay, 2,640 feet offshore from the mean high tide line of said Sanibel Island, to the point of beginning, crossing the entrance to Tarpon Bay in Sections 13 and 14, Township 46 South, Range 22, East. *Excepting* The right-of-way for the Sanibel Causeway.

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<sup>2</sup>State law reference(s)—Municipal annexation or contraction, F.S. ch. 171.

## **ARTICLE III. LEGISLATIVE**

### **Section 3.01. City council—Composition.**

There shall be a city council with all legislative powers of the city vested therein, consisting of five (5) members who shall be electors of the city elected by the electors of the city at large.

(Ord. No. 89-19, § 1, 8-15-1989/11-7-1989)

### **Section 3.02. [Same]—Election and terms.**

The regular election of city council members, beginning in March 2003, shall be held on the first Tuesday in March, in the manner provided in Article V of this Charter, and shall be for four-year terms. Terms of sitting council members shall be extended to coincide with the change in election date.

(Ord. No. 02-03, § 1, 2-19-2002)

### **Section 3.03. [Same]—Compensation and expenses.**

Council members shall serve without compensation, but shall be entitled to receive their actual and necessary expenses incurred in the performance of their official duties.

(Ord. No. 82-23, § 2, 9-7-1982/11-16-1982)

### **Section 3.04. Mayor.**

The council shall elect from among its members a mayor and a vice mayor. Election of the mayor and vice mayor shall be done annually at the first regular council meeting after the city election and in nonelection years at the first regular council meeting in December provided, however, that in non-election years beginning in 2004, such elections shall occur at the first regular council meeting in April. The mayor shall preside at meetings of the council, shall be recognized as head of city government for all ceremonial purposes, by the governor for military law and for service of process, but shall have no administrative duties. The vice mayor shall act as mayor during the absence or disability of the mayor. If the office of mayor shall become vacant upon death, incapacitation due to long-term illness, resignation, removal from office in any manner authorized by law, or forfeiture of office, the vice mayor shall serve as acting mayor in the event of such vacancy until the next regular council meeting, at which time the council shall elect a mayor and vice mayor if the vice mayor is elected mayor pursuant to the procedures in Section 3.04.

(Ord. No. 82-23, § 3, 9-7-1982/11-16-1982; Ord. No. 02-23, § 1, 10-15-2002/3-4-2002; Res. No. 03-29, § 1, 3-18-2003)

### **Section 3.05. General powers and duties.**

All legislative powers of the city shall be vested in the city council, which shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law. The council may delegate to the city manager the power to execute contracts, deeds and other documents approved by the council, and to

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represent the city in all agreements with other governmental entities or certifications to other governmental entities.

(Ord. No. 82-23, § 4, 9-7-1982/11-16-1982)

### **Section 3.06. Prohibitions.**

- (a) *Holding other office.* No former elected city official shall hold any compensated appointive city office or employment until one year after the expiration of the term for which he or she was elected, except by four-fifths (  $\frac{4}{5}$  ) vote of the council.
- (b) *Appointments and removals.* Neither the council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the manager or any subordinates are empowered to appoint, but the council may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees.
- (c) *Interference with administration.* Except for questions involving routine council business, the council and its members shall not interfere with the administration and shall deal directly with the city manager. Investigation of activities and performance of the city administration, manager and staff, may be done only by the vote of at least three (3) council members.

(Ord. No. 82-23, §§ 5, 6, 9-7-1982/11-16-1982)

### **Section 3.07. Vacancies, forfeiture of office; filling of vacancies.**

- (a) *Vacancies.* The office of a council member shall become vacant upon death, incapacitation due to long-term illness, resignation, removal from office in any manner authorized by law, or forfeiture of the council member's office.
- (b) *Forfeiture of office.* A council member shall forfeit office if he or she:
  - (1) Lacks at any time during the term of office any qualifications for the office prescribed by this Charter or by law;
  - (2) Violates any standard of conduct or code of ethics established by law for public officials; or
  - (3) Is absent from three (3) consecutive regular council meetings without being excused by the council.
- (c) *Filling of vacancies.* A vacancy on the council shall be filled in one of the following ways:
  - (1) If there is less than six (6) months remaining in the unexpired term or if there is less than six (6) months before the next regular city election, the council, by a majority vote of the remaining members, shall choose a successor to serve until the newly elected council member is qualified. If two (2) years remains in the term of the vacated seat at the time of the next regular election, that seat shall be filled by election for the remaining two (2) years;
  - (2) If there is more than six (6) months remaining in the unexpired term and no regular city election is scheduled within six (6) months, the council shall fill the vacancy on an interim basis as provided in (1), and shall schedule a special election to be held not sooner than one hundred twenty (120) days, nor more than one hundred fifty (150) days following the occurrence of the vacancy. If a run-off election is necessary, it shall be scheduled two (2) weeks following the election.

Notwithstanding any quorum requirements established herein, if at any time the membership of the council is reduced to less than a quorum, the remaining members may, by majority vote, appoint additional members under either (1) or (2) above.



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- (d) *Extraordinary vacancies.* In the event that three (3) or more vacancies occur on the council, for whatever reason and by whatever cause, the governor shall appoint interim council members to fill the vacancies who shall call a special election as provided in (c) above, and such election shall be done in the following manner: Qualification of candidates shall be in accordance with Section 5.03, and the election held in accordance with Section 5.04 of the Sanibel City Charter. Council members elected shall, by lot at their first meeting, determine which shall serve for the two-year terms open and which for the four-year terms open.

(Ord. No. 82-23, § 7, 9-7-1982/11-16-1982; Ord. No. 87-40, § 1, 11-17-1987/3-8-1988; Ord. No. 89-19, § 1, 8-15-1989/11-7-1989; Ord. No. 07-002, § 1, 3-6-2007/5-1-2007; Res. No. 07-069, § 3, 5-15-2007/5-1-2007)

State law reference(s)—Code of ethics for public officers, F.S. § 112.311; recall of municipal officers, F.S. § 100.361; procedure required for filing vacancies, F.S. § 166.031.

### **Sec. 3.08. City manager to appoint city clerk.**

The city manager shall appoint a city employee, other than the city manager, who shall serve as clerk of the council and shall give notice of council meetings to its members and to the public and shall keep the journal of its proceedings which shall be a public record.

(Ord. No. 04-015, § 1, 3-1-2005/10-19-2004; Res. No. 05-045, § 3, 3-3-2005/3-15-2005)

### **Sec. 3.09. Procedure.**

- (a) *Meetings.* The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of any individual council member, whenever practicable, upon no less than twelve (12) hours' notice to each member and the public. All meetings shall be public.
- (b) *Rules and journal.* The council shall determine its own rules and order of business and shall keep a journal containing all minutes of meetings.
- (c) *Voting.* Voting, on ordinances and resolutions, shall be by roll call and shall be recorded in the journal. A majority of the council shall constitute a quorum; but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. No action of the council, except as otherwise provided in the preceding sentence and in Section 3.07, shall be valid or binding unless adopted by the affirmative vote of the majority of a quorum present. All council members shall vote on all matters before the council except on those matters on which the council member announces a conflict of interest.

(Ord. No. 04-019, § 1, 3-1-2005/11-2-2004; Res. No. 05-045, § 3, 3-3-2005/3-15-2005)

State law reference(s)—Meetings to be public, F.S. § 286.011; requirement for voting, F.S. § 286.0115; quorum vote required on ordinances and resolutions, F.S. § 166.041(4).

### **Section 3.10. Ordinances in general.**

"Ordinance" means an official, legislative action of the council, which action is a regulation of a general and permanent nature and enforceable as a local law. "Resolution" means an expression of the council concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the council.

- (a) *Form.* Each ordinance or resolution shall be introduced in writing and shall embrace but one subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance

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shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act, section, subsection or paragraph of a section or subsection.

- (b) *Procedure.* A proposed ordinance shall be read by title, or in full, on at least two (2) separate days, at either regular or special meetings of the council, and shall, at least seven (7) days prior to adoption, be noticed once in a newspaper of general circulation in the city. The notice of proposed enactment shall state the date, time and place of the meeting, the title or titles of proposed ordinances and the place or places within the city where such proposed ordinances may be inspected by the public. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.
- (c) *Effective date.* Except as otherwise provided in this Charter, every adopted ordinance shall become effective ten (10) days after adoption or as otherwise specified therein.
- (d) *[Zoning; land development.]* Ordinances initiated by the city council which rezone private property, adopt comprehensive land use plans or amendments thereto shall be adopted by procedures set forth in general law.

(Ord. No. 82-23, § 8, 9-7-1982/11-16-1982)

State law reference(s)—Ordinance enactment procedures, F.S. § 166.041; authority to specify additional requirements, F.S. § 166.041(6).

### **Sec. 3.10.1. Environmentally Sensitive Lands Conservation District.**

- a. The Environmentally Sensitive Lands Conservation District, established through appropriate legislation, shall continue in existence in perpetuity, and the lands contained therein shall be kept forever wild, consistent with Sanibel's designation as a sanctuary for wildlife and for humans who wish to experience nature in its indigenous beauty and diversity, free of disruptive human activity. Actions to restore and maintain the ecological integrity of degraded or stressed habitats, on the other hand, are consonant with the purposes of said District.
- b. Actions by the City to sell, exchange, donate, or otherwise alienate City-owned land, or any interest therein, or public rights-of-way within the Environmentally Sensitive Lands Conservation District; to remove any land, public or private, from said district; or to abolish the district, may be taken by the City only by affirmative vote of a majority of the electors at a referendum called for that purpose.

(Ord. No. 89-24, § 1, 8-29-1989/11-7-1989; Res. No. 00-93, § 2, 8-1-2000/11-7-2000; Res. No. 00-139, § 1, 11-21-2000/11-7-2000)

### **Section 3.10.2. Ordinance increasing residential development intensity.**

Actions to increase the residential development density as established in the Sanibel Plan, as constituted on May 4, 2004, except for rounding upward of fractional allocations of fifty percent (50%) or more to the next whole number, may be taken by the city only by ordinance approved by a majority of the qualified city electors voting at the next general election or a special election called for such purpose; provided, however, that nothing contained in this Section 3.10.2 shall preclude the city council from permitting residential densities in excess of those established in the Sanibel Plan, where the purpose is 1) to provide incentives for the Below Market Rate Housing Program, or 2) to permit redevelopment of existing parcels up to the number of existing dwelling units on May 4, 2004, provided the redevelopment is otherwise in conformance with the Sanibel Plan and the Land Development Code. Any law or regulation which is in conflict with this Section 3.10.2 is hereby repealed.

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(Ord. No. 89-26, § 1, 8-29-1989/11-7-1989; Res. No. 04-114, § 2, 3-1-2005/9-21-2004; Res. No. 05-045, § 3, 3-3-2005/3-15-2005)

### **Section 3.10.3. Ordinances removing lands from certain ecological zones or districts.**

Actions to remove land, by boundary change or otherwise, from the mangrove forest ecological zone, the lowland wetland ecological zone, the upland wetland ecological zone or the interior wetlands conservation district, as established in the comprehensive land use plan, may be taken by the city only by ordinance adopted by the affirmative vote of not less than four-fifths (  $\frac{4}{5}$  ) of the membership of council where the full membership is voting; or unanimous vote of the voting members where less than the full membership is voting.

(Ord. No. 89-28, § 1, 8-29-1989/11-7-1989)

### **Section 3.10.4. Ordinances increasing permitted height of building(s).**

Actions to increase the permitted height of a building or buildings as established in the Sanibel Plan, as constituted on May 4, 2004, may be taken by the city only by ordinance approved by a majority of qualified city electors at the next general election or a special election called for such purpose; provided, however, that where a condominium building, which is a nonconforming structure, is destroyed or substantially damaged in a natural disaster, reconstruction of which is in all other respects permitted by the Land Development Code, such reconstructed building may exceed the height of the building immediately prior to the disaster by up to one story (1) if, and to the extent, the building must be elevated above ground level to comply with applicable flood abatement laws or regulations and (2) reconstruction without allowing for such additional height would result in the loss of a dwelling unit by its owner. Any law or regulation which is in conflict with this Section 3.10.4 is hereby repealed.

(Res. No. 04-115, § 2, 3-1-2005/9-21-2004; Res. No. 05-045, § 3, 3-3-2005/3-15-2005)

### **Section 3.10.5. Ordinances increasing permitted impermeable coverage, vegetation removal or developed area.**

Ordinances to increase the permitted maximum land area to be (1) covered with impermeable surfaces, (2) cleared of vegetation and/or (3) used as developed area, as established in the Land Development Code as constituted on May 4, 2004, shall become effective only upon approval by a majority of qualified city electors at the next general election or a special election called for such purpose. Any law or regulation which is in conflict with this Section 3.10.5 is hereby repealed.

(Res. No. 04-116, § 2, 3-1-2005/9-21-2004; Res. No. 05-045, § 3, 3-3-2005/3-15-2005)

### **Section 3.11. Emergency ordinances.**

The city council may, by two-thirds (  $\frac{2}{3}$  ) vote, enact emergency ordinances without complying with the requirements of paragraph (b) of section 3.10. Every emergency ordinance except emergency appropriations shall automatically stand repealed as of the sixty-first day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance under regular procedures, or if the emergency continues to exist, in the manner specified in this section. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(Ord. No. 82-23, § 9, 9-7-1982/11-16-1982)

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State law reference(s)—Emergency ordinances, F.S. § 166.041(3)(b).

### **Section 3.12. Budget adoption.**

The council shall adopt the annual budget pursuant to general law.

(Ord. No. 82-23, § 10, 9-7-1982/11-16-1982)

State law reference(s)—Municipal fiscal year, F.S. § 166.241; annual budget adoption procedure, F.S. § 200.065.

### **Section 3.13. Appropriation amendments during the fiscal year.**

- (a) *Supplemental appropriations.* If, during the fiscal year, revenues in excess of those estimated in the budget are available for appropriation, the council may make supplemental appropriations for the year up to the amount of such excess.
- (b) *Reduction of appropriations.* If, at any time during the fiscal year, it appears probable to the manager that the revenues available will be insufficient to meet the amount appropriated, he/she shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by him/her and his/her recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may reduce one or more appropriations.
- (c) *Limitations; effective date.* No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.
- (d) *Transfer of appropriations.* At any time during the fiscal year the manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the manager, the council may transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

(Ord. No. 82-23, § 11, 9-7-1982/11-16-1982; Ord. No. 19-001, § 3, 4-2-2019)

State law reference(s)—Appropriations not to exceed revenues, F.S. § 166.241(3).

### **Section 3.14. Authentication, recording and disposition of Charter amendments, ordinances and resolutions.**

- (a) *Authentication.* The presiding officer of the council and the person charged with keeping the journal shall authenticate, by their signatures, all ordinances and resolutions adopted by the council. In addition, when Charter amendments have been approved by the electors, the presiding officer of the council and the person charged with keeping the journal shall authenticate, by their signatures, the Charter amendment, such authentication to reflect the approval of the Charter amendment by the electorate.
- (b) *Recording.* The person charged with keeping the journal shall keep properly indexed books in which shall be recorded, in full, all ordinances and resolutions passed by the council. Ordinances shall, at the direction of the council, be periodically codified. The person charged with keeping the journal shall also maintain the city Charter in current form and shall enter all Charter amendments and send copies of amendments to the secretary of state's office.

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- (c) *Printing.* The council shall establish procedures for making all resolutions, ordinances, technical codes adopted by reference, and this Charter available to the people of the city for public inspection and available for purchase at a reasonable price.

(Ord. No. 82-23, § 12, 9-7-1982/11-16-1982)

### **Section 3.15. Codes of technical regulations.**

- [(a)] The council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance and such ordinance may amend the code. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally, except that:
- (1) The requirements of Section 3.14 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance; and
  - (2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the city clerk pursuant to subsection 3.14(a).
- [(b)] Copies of any adopted code of technical regulations shall be made available by the designated city official for distribution or for purchase at a reasonable price.

(Ord. No. 04-015, § 2, 3-1-2005/10-19-2004; Res. No. 05-045, § 3, 3-3-2005/3-15-2005)

State law reference(s)—Technical codes generally, F.S. ch. 553; building construction standards, F.S. § 553.73.

### **Section 3.16. Planning commission.**

There shall be a planning commission, advisory to the council, which shall be the local planning agency and the land development regulation commission pursuant to Florida Statutes. The planning commission shall have such functions and duties as set forth in the Sanibel Code, as constituted on May 4, 2004, and such additional functions and duties as may be delegated by city council. The purpose of the planning commission shall be to plan for, and where appropriate, limit development and redevelopment in the City of Sanibel in a manner consistent with the Sanibel Plan, Land Development Code, and other ordinances. As a quasi-judicial body, it should be reasonably insulated from political pressures and should have a measure of continuity and institutional memory. The planning commission shall consist of seven (7) unsalaried residents of the city, appointed by majority vote of the council. Commissioners shall be appointed to three-year terms. Terms shall be staggered so as to ensure overall continuity of the commission, with three members appointed in one year, two in the next, two in the next, with the cycle then repeating. During their terms, commissioners may be removed by city council only for incapacity to serve (repeated absence or a medical condition interfering with performance of duties), or for cause, and in the latter case only after a public hearing, with notice posted in island newspapers.

(Ord. No. 82-23, § 13, 9-7-1982/11-16-1982; Res. No. 04-117, § 2, 3-1-2005/8-21-2004; Res. No. 05-045, § 3, 3-3-2005/3-15-2005)

### **Section 3.17. City-authorized major changes to Highway 867 (Causeway Blvd., Periwinkle Way, Palm Ridge Road and Sanibel-Captiva Road).**

- a. *Sanctuary Island Artery.* Lee County Highway 867 (Causeway Blvd., Periwinkle Way, Palm Ridge Road and Sanibel-Captiva Road) exercises a critical influence on development intensity, and thus on the environmental quality of this "Sanctuary Island" and its J.N. "Ding" Darling National Wildlife Refuge. The City of Sanibel was founded with the primary aim of limiting development to levels that would allow preservation in perpetuity



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of a unique and environmentally sensitive barrier island. A portion of the Sanibel Plan in its Vision Statement states "Auto-urban development influences will be avoided." Citizens of the City of Sanibel have a special stake as stewards of the city's commitment to remain a "Sanctuary Island." To this end, certain decisions affecting Highway 867 should be made only with the explicit consent of a majority of the electors of the City of Sanibel.

- b. *Referendum.* Whenever the city council wishes to direct or authorize certain major changes to Highway 867, including revisions to any interlocal agreement governing Highway 867 that would enable Lee County to make those changes, the city council shall submit each proposal to a yes or no vote in a mail ballot referendum. No such proposal may be adopted without approval by a majority of the qualified city electors. Elector approval shall be required for proposals that would or could lead to (i) new vehicular travel lanes; ("new" means additional vehicular travel lanes and does not mean the relocation or redesign of existing vehicular travel lanes); (ii) addition of streetlights; or (iii) addition of traffic signals. New turning lanes are exempt from the referendum requirement, provided they are 100 yards in length or less, and are not subsequently linked to form a continuous lane longer than 100 yards.

(Res. No. 04-118, § 2, 3-1-2005/9-21-2004; Res. No. 05-045, § 3, 3-3-2005/3-15-2005; Ord. No. 06-020, § 1, 12-19-2006/3-6-2007; Res. No. 07-038, § 3, 3-20-07/3-6-2007)

### **Section 3.18. The Sanibel Vision Statement.**

The Sanibel Vision Statement is a confirmation of the community's shared values and goals, to guide future decisions.

#### **SANCTUARY**

Sanibel is and shall remain a barrier island sanctuary, one in which a diverse population lives in harmony with the island's wildlife and natural habitats. The Sanibel community must be vigilant in the protection and enhancement of its sanctuary characteristics.

The City of Sanibel will resist pressures to accommodate increased development and redevelopment that is inconsistent with the Sanibel Plan, including the Vision Statement.

The City of Sanibel will guard against and, where advisable, oppose human activities in other jurisdictions that might harm the island's sensitive habitats, including the island's surrounding aquatic ecosystems.

#### **COMMUNITY**

Sanibel is and shall remain a small town community whose members choose to live in harmony with one another and with nature; creating a human settlement distinguished by its diversity, and will endeavor to maintain it.

*Diversity.*: The City of Sanibel cherishes its culture, social, ecological, and economic diversity, and will endeavor to maintain it.

*Beauty.*: The City of Sanibel will foster quality, harmony and beauty in all forms of human alteration of the environment. The community aesthetic is defined as a casual style; one which is adapted to a relaxed island quality of life and respectful of local history, weather, culture and natural systems.

*Uniqueness.*: The City of Sanibel chooses to remain unique through a development pattern which reflects the predominance of natural conditions and characteristics over human intrusions. All forms of development and redevelopment will preserve the community's unique small town identity.

*Character.*: The City of Sanibel chooses to preserve its rural character in its setting within and [an] urbanizing county. "Auto-urban" development influences will be avoided. The commercialization of natural resources will be limited and strictly controlled.

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*Stewardship.*: In keeping with the foregoing principles, the City of Sanibel affirms a land ethic that recognizes landholding—both public and private—as a form of stewardship, involving responsibilities to the human and natural communities of the island and its surroundings, and to future generations.

**ATTRACTION.** The Sanibel community recognizes that is [its] attractiveness to visitors is due to the island's quality as sanctuary and as community. The City of Sanibel will welcome visitors who are drawn by, and are respectful of, these qualities; it will resist pressures to accommodate visitor attractions and activities that compromise these qualities.

**HIERARCHY OF VALUES.** This three-part statement of the community's vision of its future is a hierarchy; one in which the dominant principle of Sanibel's sanctuary quality. Sanibel shall be developed as a community only to the extent in which it retains and embraces this quality of sanctuary. Sanibel will service as attraction only to the extent to which it retains its desired qualities as sanctuary and community.

(Ord. No. 06-010, § 1, 8-1-2006/3-6-2007; Res. No. 07-038, § 3, 3-20-2007/3-6-2007)

## **ARTICLE IV. ADMINISTRATIVE**

### **Section 4.01. City manager—[Generally].**

There shall be a city manager who shall be the chief administrative officer of the city. The city manager shall be responsible to the council for the administration of all city affairs placed in the manager's charge by or under this Charter.

### **Section 4.02. [Same]—Appointment; removal; residency; compensation.**

- (a) *Appointment.* The council shall appoint a city manager for an indefinite term by a majority vote of all the council members.
- (b) *Removal.* The council may remove the city manager for good cause shown, by the affirmative vote of at least three (3) members of council. Upon request, by the city manager to be made within five (5) days after receipt of written notification of such vote, a public hearing shall be held within ten (10) days after receipt of such request. After such hearing, the council, by affirmative vote of at least three (3) council members, shall decide whether to reconsider its previous action.
- (c) *Residency.* The manager need not be a resident of the city or state at the time of the manager's appointment, but may reside outside the city while in office only with the approval of the council.
- (d) *Compensation.* The compensation of the manager shall be fixed by the council and shall not be reduced during the tenure of the manager.

(Ord. No. 82-23, § 14, 9-7-1982/11-16-1982)

### **Section 4.03. [Same]—Acting city manager.**

By letter filed with the council, the manager shall designate a qualified city administrative officer to exercise the powers and perform the duties of manager during the city manager's temporary absence or disability, not to exceed a period of thirty (30) days. During such absence or disability, the council may revoke such designation at any time and appoint another officer of the city to serve until the manager shall return or the manager's disability shall cease.

(Ord. No. 82-23, § 15, 9-7-1982/11-16-1982)

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#### **Section 4.04. [Same]—Powers and duties.**

The city manager shall:

- (a) Appoint and, when deemed necessary for the good of the service, suspend or remove city employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. The manager may authorize any administrative officer who is subject to the direction and supervision of the manager to exercise these powers with respect to subordinates in that officer's department, office or agency.
- (b) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this Charter or by law.
- (c) Attend all council meetings and shall have the right to take part in discussion, but may not vote.
- (d) See that all laws, provisions of this Charter and acts of the council, subject to enforcement by the city manager or by officers subject to the city manager's direction and supervision, are faithfully executed.
- (e) Prepare and submit the annual budget, budget message, and capital program to the council in a form provided by ordinance.
- (f) Submit to the council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year.
- (g) Make sure other reports [are submitted] as the council may require concerning the operations of city departments, offices and agencies subject to his/her direction and supervision.
- (h) Keep the council fully advised as to the financial condition and future needs of the city and make such recommendations to the council concerning the affairs of the city as he/she deems desirable.
- (i) Perform such other duties as are specified in this Charter or may be required by the council.

(Ord. No. 82-23, § 29, 9-7-1982/11-16-1982; Ord. No. 19-001, § 3, 4-2-2019)

#### **Section 4.05. [Same]—Supervision of departments.**

Except as otherwise provided in this Charter or by general law, the city manager shall be responsible for the supervision and direction of all departments, agencies or offices of the city. All departments, offices and agencies under the direction and supervision of the manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of council, the manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two (2) or more of them.

(Ord. No. 82-23, § 16, 9-7-1982/11-16-1982)

#### **Section 4.06. Administrative code.**

The manager shall develop and keep current an administrative code for the purpose of implementing ordinances passed by the council.

#### **Section 4.07. City attorney.**

There shall be a city attorney, appointed by the council, who shall serve as chief legal advisor to the council and administration and shall represent the city in all legal proceedings and perform such other related duties as

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the council may deem necessary. The city attorney may be full-time or part-time, as the council may deem necessary. The city attorney shall be considered an "at-will" employee and such employment may be terminated upon majority vote of council at the council's sole discretion. The city attorney, except as otherwise provided herein, shall be deemed the head of the city's office of legal affairs for the purpose of effectuating the provisions of Section 4.05 hereinabove.

(Ord. No. 82-23, § 17, 9-7-1982/11-16-1982; Res. No. 03-29, § 1, 3-18-2003; Ord. No. 02-23, § 2, 10-15-2002/3-4-2003; Res. No. 03-29, § 1, 3-18-2003)

## **ARTICLE V. NOMINATIONS AND ELECTIONS<sup>3</sup>**

### **Section 5.01. Electors.**

Any person who is a resident of the city, who has qualified as an elector of this state, and who registers in the procedural manner prescribed by general law and ordinance of the city, shall be an elector of the city.

State law reference(s)—Similar provisions, F.S. §§ 97.041, 166.032.

### **Sec. 5.02. Nonpartisan elections.**

All nominations and elections for the office of city councilmember shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation of any nominee on any nomination petition or ballot.

(Ord. No. 19-001 , § 3, 4-2-2019)

### **Sec. 5.03. Nominations.**

Candidates for the several council seats for which there are vacancies shall file with the designated city official a declaration of intention to seek office within the qualifying period set forth hereinbelow. The candidate shall be nominated for election if, within the qualifying period prescribed below, a written petition is filed with the designated city official in the following manner:

Any elector of the city may be nominated for election by petition signed by electors of the city not less in number than one (1) percent of the number of persons who voted in the city for the office of governor at the last gubernatorial election. The signatures to a nominating petition need not all be affixed to one paper, but to each separate paper of a petition there shall be attached an affidavit executed by its circulator stating the number of signers, the fact that each signature was made in the presence of the circulator and that the circulator believes each signature to be the genuine signature of the person whose name it purports to be. The signature shall be executed in ink or indelible pencil. The printed name of the signer, the signer's voter registration number, date of signing and the signer's current street address of residence shall be indicated next to the signature. The Lee County Supervisor of Elections shall inspect the signatures to determine that each signer is a qualified voter.

The qualifying period for candidates for city council shall begin at noon on the second Monday in January of odd numbered years and end at noon on the Friday immediately following.

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<sup>3</sup>State law reference(s)—Use of permanent single registration system by municipalities, F.S. § 97.105; resign to run law, F.S. § 99.012; opening and closing of polls, F.S. § 100.011; bond referendums, F.S. § 100.201 et seq.; voting procedures, F.S. ch. 101; election code violations, F.S. ch. 104; campaign financing, F.S. ch. 106.

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(Ord. No. 89-19, § 1, 8-15-1989/11-7-1989; Ord. No. 96-03, § 1, 3-19-1996; Ord. No. 97-14, § 1, 8-5-1997; Ord. No. 08-017, § 2, 10-21-2008)

State law reference(s)—Qualifying period for county office, F.S. § 99.061(1); authority to change dates for qualifying and for the election of members of the governing body by ordinance, F.S. § 100.3605(b).

#### **Sec. 5.04. Elections.**

- (a) The council shall prescribe the form of the ballot including the method for listing candidates for city council elections and any other city election. An ordinance or Charter amendment to be voted on by the city shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above-described (ordinance) (amendment) be adopted?" Immediately below such questions shall appear, in the following order, the word "yes" and also the word "no" with a sufficient blank space thereafter for the placing of a symbol to indicate the voter's choice or with a lever opposite "yes" or "no" if voting machines are used.
- (b) Electors may vote for any number of candidates up to the number of council seats to be filled. The candidates receiving the highest number of votes shall be declared elected to such seats.
- (c) The term of office for an elected council member shall begin on the second Tuesday following the council election, and end on the Monday immediately preceding commencement of the following term.

(Ord. No. 82-23, § 19, 9-7-1982/11-16-1982; Ord. No. 87-40, § 3, 11-17-1987/3-8-1988; Ord. No. 89-19, § 1, 8-15-1989/11-7-1989; Ord. No. 91-04, §§ 1, 2, 2-19-1991/3-10-1992)

#### **Sec. 5.05. Reserved.**

Editor's note(s)—Section 19 of Ord. No. 82-23, adopted on Sept. 7, 1982, and approved at referendum of Nov. 16, 1982, provided that former §§ 5.04Editor's note(s)— and 5.05Editor's note(s)— be combined to form a new section to be designated as § 5.04Editor's note(s)—. Hence, § 5.05Editor's note(s)— is reserved for future use.

### **ARTICLE VI. INITIATIVE, REFERENDUM AND RECALL<sup>4</sup>**

#### **Sec. 6.01. Initiative.**

The qualified voters of the city shall have power to propose ordinances to the council and, if the council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election; provided, that such power shall not extend to the budget or capital program or to any ordinances relating to appropriation of money, levy of taxes or salaries of city officers or employees.

#### **Section 6.02. Referendum.**

The qualified voters of the city shall have power to require reconsideration by the council of any adopted ordinances and, if the council fails to repeal an ordinance so reconsidered, to approve or reject it at a city election;

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<sup>4</sup>State law reference(s)—Recall of municipal officers, F.S. § 100.361.



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provided, that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees.

### **Section 6.03. Recall.**

Recall of elected officials shall be as provided for by general law.

(Ord. No. 82-23, § 20, 9-7-1982/11-16-1982)

State law reference(s)—Recall of members of governing body, F.S. § 100.361.

### **Section 6.04. Commencement of proceedings for initiative and referendum.**

Any five (5) qualified voters may commence initiative and referendum proceedings by filing with the city manager or other official designated by the council an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioners' committee is filed, the city manager or other official designated by the council may, at the committee's request, issue the appropriate petition blanks to the petitioners' committee at the committee's expense.

(Ord. No. 82-23, § 21, 9-7-1982/11-16-1982)

### **Section 6.05. Petition.**

- (a) *Number of signatures.* Initiative and referendum petitions must be signed by qualified voters of the city equal in number to at least twenty-five (25) per cent of the total number of qualified voters registered to vote at the last regular city election.
- (b) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be followed by the printed name of person signing, the signers' voter registration number and the current street address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered. The Lee County Supervisor of Elections shall inspect the signatures to determine that each signer is a qualified voter of the city.
- (c) *Affidavit of circulator.* Each person circulating a copy of the petition shall attach to it a sworn affidavit stating the number of signers, the fact that each signature was made in the presence of the circulator of the petition and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- (d) *Time for filing referendum petitions.* Referendum petitions must be filed within sixty (60) days after adoption by the council of the ordinance sought to be reconsidered.

(Ord. No. 82-23, § 22, 9-7-1982/11-16-1982)

### **Section 6.06. Procedure for filing.**

Certificate of clerk; amendment: Within twenty (20) days after the petition is filed (ten (10) business days for a referendum) the city manager or other official designated by the council shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of

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the certificate to the petitioners' committee by registered mail. Grounds for insufficiency are only those specified in Section 6.05. If the number of signatures is insufficient or the petition is deficient as to form or compliance with this section, the council shall notify the committee filing the petition and allow thirty (30) days for filing of additional petition papers, at the end of which time the sufficiency or insufficiency of the petition shall be finally determined.

(Ord. No. 82-23, § 23, 9-7-1982/11-16-1982)

### **Section 6.07. Referendum petitions; suspension of effect of ordinance.**

When a referendum petition is filed with the city manager or other official designated by the council and deemed sufficient, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (1) The petitioners' committee withdraws the petition; or
- (2) The council repeals the ordinance; or
- (3) After a vote of the city on the ordinance has been certified.

(Ord. No. 82-23, § 24, 9-7-1982/11-16-1982)

### **Section 6.08. Action on petitions.**

- (a) *Action by council.* When an initiative or referendum petition has been determined sufficient, the council shall promptly consider the proposed initiative ordinance in the manner provided in Article III or reconsider the referred ordinance by voting its repeal. If the council fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days, it shall submit the proposed or referred ordinance to the voters of the city.
- (b) *Submission to voters.* The vote of the electors on a proposed or referred ordinance shall be not less than thirty (30) days and not later than sixty (60) days from the date that the council rejected the proposed ordinance or refused to reconsider the referred ordinance. The period may be extended an additional sixty (60) days upon mutual agreement of the council and the petitioners' committee. Passage of the times provided in Section 6.08(a) without action by the council shall be considered rejection, refusal or declination. If no regular city election is to be held within the period prescribed in this subsection, the council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the council may, in its discretion, provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.
- (c) *Withdrawal of petitions.* An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the city by filing with the city manager or other official designated by the council a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(Ord. No. 82-23, § 25, 9-7-1982/11-16-1982)

### **Section 6.09. Results of election.**

- (a) *Initiative.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the council. If conflicting ordinances are

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approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

- (b) *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

(Ord. No. 82-23, § 26, 9-7-1982/11-16-1982)

## ARTICLE VII. GENERAL PROVISIONS

### Section 7.01. Charter amendment.

This Charter may be amended in two (2) ways:

- (a) *Initiation by ordinance.* The council may, by ordinance, propose amendments to any part or all of this Charter, except Article II prescribing boundaries, and upon passage of the initiating ordinance shall place the proposed amendment to a vote of the electors at the next general election held within the city or at a special election called for such purpose. Amendment of Article II resulting from annexation done in accordance with general law shall be by ordinance of the council and shall not be subject to a vote of the electors, except as provided by general law.
- (b) *Initiation by petition.* The electors of the city may propose amendments to this Charter by petition signed by at least ten (10) per cent of the total number of qualified voters registered to vote in the last regular city election.
  - (1) *Form and content of petition.* If an amendment is initiated by petition, all papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the proposed Charter amendment.
  - (2) *Affidavit of circulator.* Each paper of a petition shall have attached to it, when filed, an affidavit executed by the circulator thereof stating that the circulator personally circulated the paper, stating the number of signatures thereon, and stating that all the signatures were affixed in the circulator's presence, that the circulator believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the proposed Charter amendment.
  - (3) *Certification of petition.* Upon certification of the sufficiency of the petition by the designated official, such certification to include the validity of the names on the petition as qualified voters registered to vote in the last regular city election, the council shall place the proposed amendment to a vote of the electors at the next general election held not less than sixty (60) days after certification or at a special election called for such purpose.

State law reference(s)—Charter amendments generally, F.S. § 166.031.

### Sec. 7.02. Standards of ethics.

All elected officials and employees of the city shall be subject to the standards of conduct for public officers and employees set by general law. In addition, the council may, by ordinance, establish a code of ethics for officials and employees of the city which may be supplemental to general law but in no case may an ordinance diminish the provisions of general law.

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State law reference(s)—Code of ethics, F.S. § 112.311 et seq.

**Sec. 7.03. Legislation review.**

The council shall review during and within each even decade year the city charter, the city ordinances, and the city resolutions then in existence. Following such review it shall take such action as may be in the best interests of the city in accordance with the provisions of this charter. Nothing herein shall invalidate any charter provision, ordinance or resolution then in effect.

(Ord. No. 82-23, § 28, 9-7-1982/11-16-1982)

**Section 7.04. Penalties.**

Violations of ordinances shall be punishable in accordance with the uniform fines and penalties set by general law.

(Ord. No. 82-23, § 27, 9-7-1982/11-16-1982)

**Sec. 7.05. Severability.**

If any article, section, subsection, sentence, clause, or provision of this Charter or the application thereof shall be held invalid for any reason, the remainder of the Charter and of any ordinances or regulations made thereunder shall remain in full force and effect.

(Ord. No. 82-23, § 27, 9-7-1982/11-16-1982)

Sec. 126-1471. - Purpose and intent.

The purpose and intent of this division is to provide a means to address special and unique circumstances surrounding the history of this lawful but nonconforming development, while also providing for protection of the public health, safety and welfare through the regulation of land use, yet providing some degree of flexibility in planning, designing and carrying out the intended purpose of the project. This is to be accomplished through the adoption and implementation of a master development plan for this planned unit development together with appropriate conditions for development.

(Ord. No. 85-26, § 1(VI.B.1), 11-27-1985; Ord. No. 93-27, § 1, 11-2-1993)

Sec. 126-1472. - Subject property.

The subject property consists of two separate parcels totalling 13.1 acres located at the intersection of Tarpon Bay Road and Periwinkle Way and more particularly described in the legal description which is on file in the city manager's office.

(Ord. No. 85-26, § 1(VI.B.2), 11-27-1985; Ord. No. 93-27, § 1, 11-2-1993)

Sec. 126-1473. - Master development plan.

The master development plan is on file with the city manager and is hereby incorporated into this division and shall generally control the location of structures and other development on the subject property. A reduced scale copy is on file in the city manager's office.

(Ord. No. 85-26, § 1(VI.B.3), 11-27-1985; Ord. No. 93-27, § 1, 11-2-1993)

Sec. 126-1474. - Density/intensity.

- (a) A maximum of 54,091 square feet of commercial floor area is permitted on the 6.2 acres of commercially zoned land on the 10.7-acre parcel east of Tarpon Bay Road. The existing nonconforming employee housing facility, located on the east parcel, as shown on the master development plan, which has 13 rooms for occupancy, remains a nonconforming use.
- (b) A maximum of 11,412 square feet of commercial floor area plus parking, or 14 dwelling units, is permitted on the 2.4-acre parcel west of Tarpon Bay Road.

(Ord. No. 85-26, § 1(VI.B.4), 11-27-1985; Ord. No. 93-27, § 1, 11-2-1993)

Sec. 126-1475. - Permitted uses.

The following uses shall be permitted uses within the Bailey's Shopping Center PUD:

- (1) *Primary intended uses.* The primary intended commercial uses shall be the same as the permitted uses contained within article VIII, division 3 of this chapter regarding the TCG town center general commercial district. See subsection 126-491(a) for a listing of primary intended uses.

(2) *Other permitted uses.* Other permitted uses shall be as follows:

- a. Single-family dwellings.
- b. Duplex dwelling units.
- c. Residential cluster developments and multifamily developments, subject to the provisions of section 86-71.
- d. Occupancy of a dwelling unit by one family.
- e. Public facilities.

(3) *Conditional uses.* The same conditional uses which are provided for in section 126-512. See section 126-492 for a listing of conditional uses.

(4) *Accessory uses.* Accessory uses customarily incidental to the uses listed in this section.

(Ord. No. 85-26, § 1(VI.B.5), 11-27-1985; Ord. No. 93-27, § 1, 11-2-1993)

Sec. 126-1476. - Required conditions.

(a) *Generally.* Except where otherwise specifically provided for in this division, the requirements of the Land Development Code shall control.

(b) *Additional development within the planned unit development.*

- (1) When the planning commission approves a development permit, the development permit shall constitute an amendment to the planned unit development master development plan.
- (2) If changes to the planned unit development regulations are required, they shall be processed as an amendment to this division.
- (3) The required setback from Periwinkle Way and Tarpon Bay Road for bonus outdoor seats and tables for the restaurant located at the northwest corner of the east parcel are established by two lines: One line connects the northeast corner of the building with the northeast corner of the canopy; the other line connects the northwest corner of the building with the northwest corner of the canopy. Both of these lines are shown as dashed lines on the master development plan. In any case, bonus outdoor seating shall setback a minimum 75 feet and 66 feet from the centerline of Periwinkle Way and Tarpon Bay Road rights-of-way, respectively.

(c) *On-site parking.* Conditions for on-site parking shall be as follows:

- (1) There shall be at least 281 parking spaces which shall serve as shared parking for up to 18 separate commercial units in the 54,091 square feet of commercial floor area shown on the master development plan.
  - a. A development permit is needed in order to add or to eliminate parking on either the east or west parcel.
  - b. However, the parking standards set forth in this subsection are subject to review by the planning commission as part of the process of development of the west parcel.
  - c. A vegetation buffer is not required between the underlying commercial and residential zones, under common ownership, within the planned unit development.
- (2) On-site parking for development of the 2.4-acre west parcel shall be in accordance with the Land Development Code standards in effect at the time of development. The owner of such parcel may choose



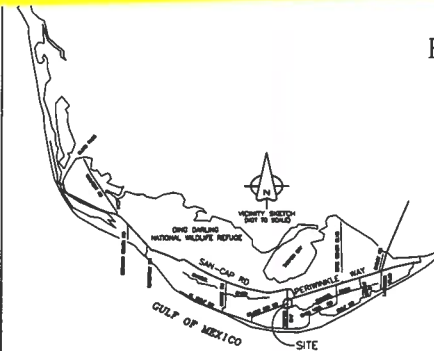
to develop in either of the following options:

- a. The owner may set aside an area for development of additional parking spaces if later deemed necessary by the planning commission pursuant to section 126-1363; or
  - b. Provide additional parking spaces as may be required, in a developed parking area on the west parcel to be used as accessory overflow parking for the shopping center on the east parcel.
- (d) *West parcel development standards.* The development of the west parcel shall, in the following respects, meet more stringent development standards than currently called for in the Land Development Code:
- (1) There shall be no traffic access to or from Sanibel Boulevard in an effort to minimize the traffic impact upon the residential area to the west.
  - (2) The landscaping adjacent to the residential area to the west shall meet requirements of 125 percent of the amount and size of vegetation called for by chapter 122, article II, division 2 in a further effort to improve compatibility with the residential area to the west.
  - (3) The architectural character of any structure placed upon the west parcel shall be harmonious with the neighboring structures and the natural environment. No horizontal wall plane shall exceed 60 feet. No vertical wall plane shall exceed 20 feet. No roof plane shall exceed 70 feet horizontal. The texture of exterior surfaces and architectural elements shall as nearly as possible represent the repetitive small-scale elements as found in native vegetation.

(Ord. No. 85-26, § 1(VI.B.6), 11-27-1985; Ord. No. 93-27, § 1, 11-2-1993; Ord. No. 11-006, § 1, 8-2-2011)

Secs. 126-1477—126-1510. - Reserved.

**FIFTH AMENDED MASTER DEVELOPMENT PLAN**  
**FOR THE PLANNED UNIT DEVELOPMENT FOR THE BAILEY SHOPPING CENTER**  
**LAND DEVELOPMENT CODE, ARTICLE XVI, DIVISION 3, SEC. 126-1473**  
**AS AMENDED PURSUANT TO LAND DEVELOPMENT CODE SECTION 126-1476(b)(1)**  
**SECTION 26, TOWNSHIP 46 SOUTH, RANGE 22 EAST**  
**CITY OF SANIBEL, LEE COUNTY, FLORIDA**



**REQUIRED PARKING SPACES:**

AS CALCULATED PURSUANT TO LAND DEVELOPMENT CODE SECTION 126-1476(c)(1)(c.)  
 WITH THE DEVELOPMENT OF THE WEST PARCEL (DEVELOPMENT PERMIT APPLICATION NO.  
 08-4727DP).

**EAST PARCEL:**

REQUIRED COMMERCIAL PARKING SPACES	278
EXISTING SPACES	241
RESERVED SPACES	37

REQUIRED RESIDENTIAL PARKING SPACES	15
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**WEST PARCEL:**

REQUIRED COMMERCIAL PARKING SPACES	122
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RESTAURANTS, GENERAL, AND BARS / LOUNGES:  
 PER SANIBEL LAND DEVELOPMENT CODE, ZONING,  
 CHAPTER 126, ARTICLE XV, DIVISION 2, SECTION 126-1361.

THE NUMBER OF SEATS AND SQUARE FOOTAGE WAS TAKEN  
 FROM THE ARCHITECTURAL PLANS.

RESTAURANTS, GENERAL (7,991 S.F.)  
 PROPOSED NUMBER OF SEATS = 214  
 THE GREATER BETWEEN  
 1 SPACE PER 75 S.F. OF FLOOR AREA  
 (1 SPACE) X (7,991 S.F. / 75 S.F.) = 107 SPACES

OR

15 SPACES PLUS 1 SPACE FOR EACH 3 SEATS IN EXCESS OF 20 SEATS  
 (15 SPACES) + (1 SPACE) X (194 SEATS / 3 SEATS) = 80 SPACES

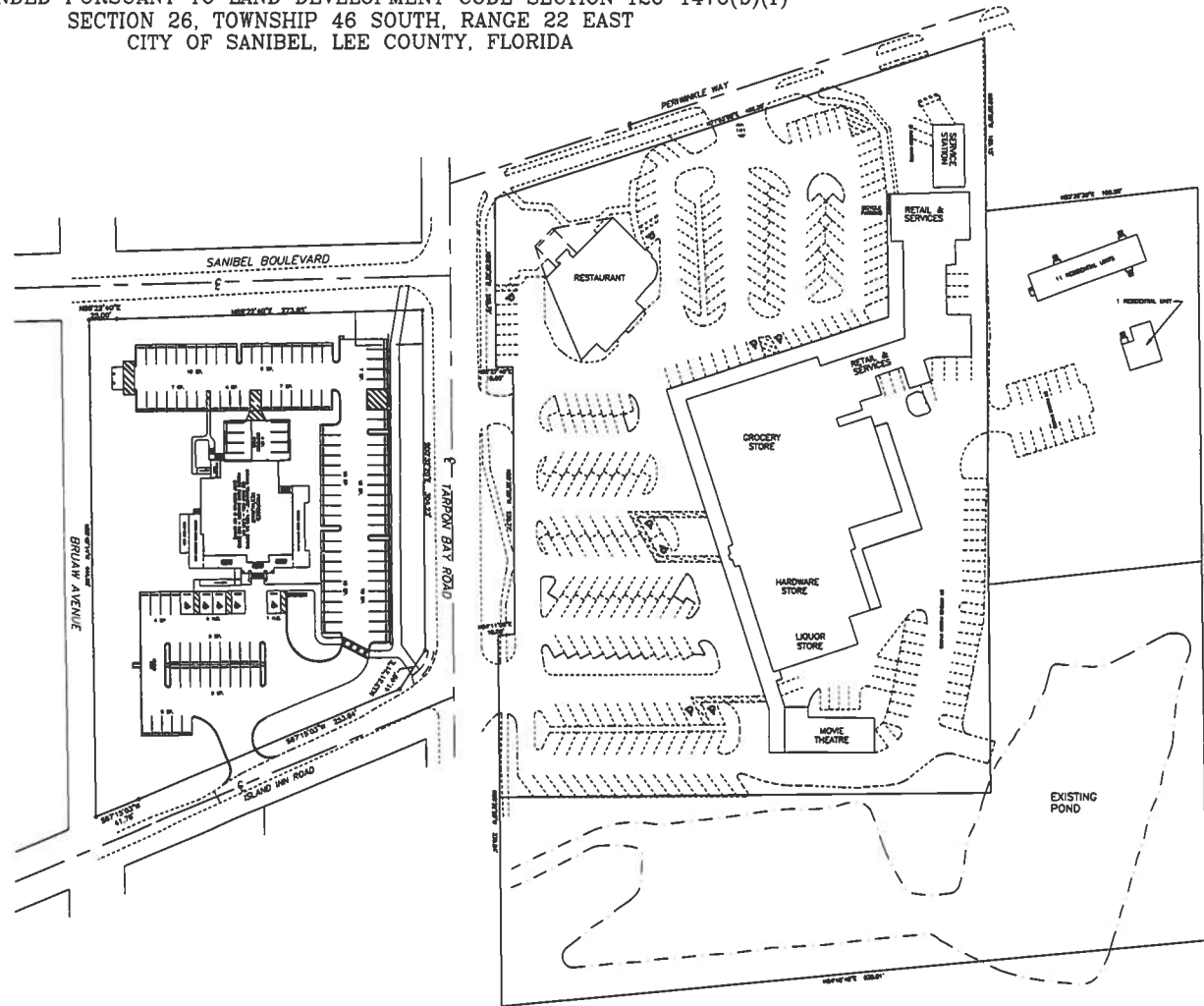
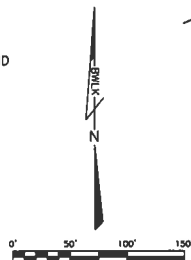
BARS / LOUNGES (700 S.F.)  
 PROPOSED NUMBER OF SEATS = 15  
 THE GREATER BETWEEN  
 5 SPACES PLUS 1 SPACE FOR EACH 50 S.F. IN EXCESS OF 200 S.F.  
 (5 SPACES) + (1 SPACE) X (500 S.F. / 50 S.F.) = 15 SPACES

1 SPACE FOR EACH 2 SEATS  
 (15 SEATS / 2) = 8 SPACES

• THIS FIGURE INDICATES THE NET FLOOR AREA OF THE BUILDING AND  
 THE COVERED OUTSIDE DINING AREAS EXCLUDING THE BAR AREA

**SUMMARY OF PARKING SPACES:**

TOTAL PARKING SPACES REQUIRED = 122 SPACES  
 TOTAL PARKING SPACES PROVIDED = 122 SPACES  
 TOTAL HANDICAP PARKING SPACES REQUIRED = 5 SPACES  
 TOTAL HANDICAP PARKING SPACES PROVIDED = 5 SPACES  
 TOTAL LOADING ZONE PARKING SPACES REQUIRED = 1 SPACE  
 TOTAL LOADING ZONE PARKING SPACES PROVIDED = 1 SPACE



**DENSITY / INTENSITY:**

AS PURSUANT TO LAND DEVELOPMENT CODE SECTION 126-1474  
 A MAXIMUM OF 54,091 SQUARE FEET OF COMMERCIAL FLOOR AREA  
 IS PERMITTED ON THE EAST PARCEL.

A MAXIMUM OF 11,412 SQUARE FEET OF COMMERCIAL FLOOR AREA  
 IS PERMITTED ON THE WEST PARCEL.

<b>Bean, Whitaker, Lutz &amp; Kareh, Inc.</b>		
CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS		
13041 MCGREGOR BOULEVARD, SUITE 1, FORT MYERS, FL 33919 (239) 481-1331		
AUTHORIZATION NUMBERS: EB4919 AND LB4919		
DRAFTING BY: S.D.Y.	CHECKED BY: A.L.K.	SCALE: 1"=50'
PROJECT NUMBER: 41819(1-1-24)	DATE OF DRAWING: 09-29-2015	DRAWING FILE NAME: MASTER_41819(1-1-24)JAMES.DWG