



City of Sanibel

800 Dunlop Road
Sanibel, FL 33957

Meeting Minutes - Final Land Development Code Review Sub-Committee

Tuesday, February 9, 2021

10:30 AM

City Hall

1. Call to Order

The meeting convened at 2:00 p.m.

2. Pledge of Allegiance

Chair Nichols led the Pledge of Allegiance.

3. Roll Call

Present: 6 - Chairperson Paul Nichols, Vice Chair Ty Symroski, Commissioner Roger Grogman, Commissioner Laura DeBruce, Commissioner Matthew Kirchner, and Commissioner Karen Storjohann

Absent: 1 - Commissioner Eric Pfeifer

a. Motion to excuse absent member(s) -

Commissioner Kirchner moved, seconded by Commissioner Grogman to excuse Commissioner Pfeifer. The motion carried.

Excused: 1 - Commissioner Pfeifer

4. Consent Agenda

a. Motion to authorize the Subcommittee Chair to review and approve the February 9, 2021 meeting minutes

Discussion ensued regarding concerns for authorizing the Chair to approve the minutes without bringing back for Subcommittee review. The practice of that authorization is appropriate only for an annual meeting but when there are topics being considered and multiple meetings are being held the minutes should be brought back for full Subcommittee review and approval.

5. Old Business

a. Continued discussion regarding seawalls

Chair Nichols spoke to the purpose and topic for the meeting.

Kim Ruiz, Planner, gave a brief PowerPoint presentation regarding the history of seawalls on Sanibel, provisions of the Land Development Code (LDC) relevant to seawalls, seawalls as an allowed use or a non-conforming use, existing nonconforming use seawalls, existing erosion control structures and nonconforming use seawalls on the west end of the island. With current issues expressed as follows: materials used, waterward extensions, and the existing nonconforming use of Seawalls.

Commissioner Storjohann inquired about maintenance of nonconforming seawalls and if there was a desire to maintain the structures by local contractors.

Commissioner Symroski spoke to there being future discussion when the code is brought back to the Subcommittee for language updates and how if the scope of what the Commission is considering was not in conformance any permit issued would be in violation.

Ms. Ruiz further advised regarding adding provisions to the Land Development Code that speak to the repair, replacement and maintenance of seawalls, the time line for approval being as follows: LDC Subcommittee draft amendments (March 2021), Planning Commission (April 2021), City Council (May 2021)

Discussion continued regarding engineering and requiring an engineered plan, requiring all seawalls to come before Commission as long-form application for approval. Keith Williams, City Engineer, spoke to an engineer putting their name and seal on the approved plans. Attorney Agnew stated the process would include a public hearing at Planning Commission that would then go to Council. The code changes would be done by ordinance which requires first and second reading during which public participation would take place at the second hearing. Commissioner Strojohann further inquired if plans included engineering for materials related to construction, then later coming to Planning Commission to ensure environmental concerns were followed, and inquired if all permits for repair and construction would come before commission for a period of time. Ms. Ruiz clarified that an engineered plan would consist of special considerations for impacts on materials and constructions on seawalls, where nonconforming construction would be allowed and not allowed is a different process for review and approval, replacing a seawall where allowed would they still have to get a conditional use permit and potentially increasing the standards as they relate to naturalizing the environmental compatibility for repair or reconstruction.

Commissioner Grogman inquired regarding property owners who were wishing to not repair the existing seawall but rather to replace with rip-rap or simply remove the seawall in disrepair, and the implications of new concrete composition and its impacts to the environment. Ms. Ruiz suggested to update the standards to include the language to address these issues.

Commissioner Symroski spoke to allowing short form permits for the repair of a seawall with requirements like rip rap at the toe of the seawall and further inquired about the depth of seawalls on Sanibel, Director Williams offered that typical depths of seawalls being at 5 feet in depth and not allowed to be any deeper per the Department of Environmental Protection (DEP).

Ms. Ruiz spoke regarding the Sanibel Plan and under the Future Land Use element it specifically states -nonconforming uses will not be expanded and permits will not be issued for the expansion of non conforming land uses. This would include the topic of nonconforming use of existing seawalls. Ms. Ruiz further stated that where seawalls were conforming are in canals with widths in the range of 56-155 feet, where these improvements are not allowed in narrower canals, with the total distance of shoreline where seawalls are in allowed is just over 39,000 linear feet, if extensions were allowed 12-18 inches water ward of existing seawalls overtime that would be approximately 1.13 acres of the water way that would be converted into seawalls, if an extension does that increase developed area, lot size, and does it change configuration of access to waterway. She further spoke to repairing seawalls by placing a new wall water ward would be considered an impervious improvement, in addition how slumping seawalls require removal of fill before a repair and how the loosening of this packed soil can disturb a natural environment.

Commissioner Storjohann expressed concerns for property lines, adding the 18 inches for a waterward replacement, plus the added rip rap at the toe of the seawall provides for over the allowed property owners lines.

Commissioner DeBruce spoke to meeting with Brent Stokes of Stokes Marine to review the seawalls to be repaired on Sanibel, they reviewed materials, cost of materials and vegetation that can be impacted landward by such repairs, the impacts due to trucks and barges involved in repairing seawalls, as well as the unintended benefits to property owners such as the increased lot size.

Commissioner Symroski spoke in agreeance with replacing the seawall in place, Chair Grogman spoke to the benefits to requiring engineered plans, and replacing in a way that is non disruptive to the area, and further spoke to benefits to capping the wall and sealing the work done reducing the intrusion of nearby lands.

Public Comment:

Brent Stokes - Stokes Marine - State, Federal, and local municipalities all allow the repair of seawalls beyond the existing one. Sanibel is the only municipality that does not allow repair via placement in front of existing wall. Proponent of requiring signed and sealed Engineering plans for all permits. Conditions like the proximity of vessels being moored, exposed height of the wall, is there rip-rap, slope on waterward side of

wall are factors considered when constructing the seawall. Further requesting not to restrict the engineer with materials rather the property owner wants to use vinyl or concrete, rather a decision is for areas where walls are allowed or not. Mr. Stokes has instructed his Staff not to submit applications until decision regarding materials is completed unless the permit is for an emergency repair. As a marine contractor, most requests are for replacement not removal of the existing seawall, or repair or replacement of Riprap and mangroves for a more natural approach. In addition, any marine construction is in need of federal approval to use rip-rap with a realization that there are detriments such as the calculations for loss of canal area and the inability to survey where existing wall is, and where extension will be. With benefits being for upland vegetation being undisturbed versus replacing altogether.

Discussion ensued regarding if the volume of concrete used to replace an existing seawall will be the same as what is being replaced, when a failing seawall might be in such a state of disrepair a vinyl seawall could not be placed in front of the existing seawall, what is the height width and volume limited by state and federal limits for extension, and if the wall is kicked out too far what would warrant a replacement vs. a repair.

Commissioner Symroski suggested the conditional use permit method with a requirement for an engineered plan. Chair Grogman spoke to what would the number of inches could be for allowing water ward extension, what would the cost savings be for residents, and if vinyl is safe for the environment. Commissioner Kirchner inquired to what the depth of corrugation is on the corrugated panels to supplement for the volume of water lost in a waterward extension.

Vice Mayor Smith inquired if we currently allow for any waterward extension in our code, if not perhaps we consider allowing for a variance request in order to make more sound decisions rather a seawall would be allowed to be replaced in its existing place or placed waterward of the existing seawall.

Ms. Ruiz stated that there would be very limited situations that would be approved through the variance process. Commissioner Symroski spoke to the standards of a variance. Commissioner DeBruce spoke in agreeance with the option to apply for a variance, Ms. DeBruce further spoke to the cost and effects to neighboring properties.

Public Comment:

Brent Stokes - concern if using variance process, and spoke to emergent repairs needing timely approval for failed walls.

Discussion ensued to have consensus to direct staff to list of guiding concerns when considering an extension variance, seawall caps are getting longer, hangovers are

increased to as much as 10 inches, and there always being a gap between each new wall repair. Commissioner Nichols spoke to considerations for the variance process for exceptions and include updates for LDC.

Public comment:

Brent Stokes - expressed concerns for applying for a variance to get to approval. He spoke to emergent repairs needing timely approval for failed walls.

Director Williams stated that variance criteria stand on their own and are site specific.

Discussion ensued regarding the difficulty, benefits and challenges associated in applying for a Conditional Use Permit or Variance.

6. Public Comment

Vice Mayor Smith spoke to the need to establish the date of the next meeting.

Director Williams stated that Vice Mayor Smith would bring the topic up at the March 2 Council meeting to give direction to the Subcommittee to review and discuss the section of code relating to formula retail. The Subcommittee agreed by consensus to schedule the next meeting for Tuesday, March 9, 2021.

7. Adjournment

There being no further business the meeting adjourned at 4:23 p.m.