800 Dunlop Road
Sanibel, FL 33957

City of Sanibel

Meeting Minutes - Final

Planning Commission

The times are estimated, but public hearings will not commence prior to the time stated

Tuesday, October 24, 2017 **9:00 AM** **MacKenzie Hall**

1. Call To Order

The meeting was called to order at 9:01 a.m.

Present: 7 - Chair Phillip Marks, Vice Chair Holly Smith, Commissioner Chuck Ketteman, Commissioner John Talmage, Commissioner Christopher Heidrick, Commissioner Karen Storjohann, and Commissioner Dirk deWerff

2. Pledge of Allegiance

Vice Chair Holly Smith led the Pledge of Allegiance.

3. Public Comments on Items Not Appearing on the Agenda

None.

4. City Council Liaison Report

Councilman Goss provided an update on City Council's recent activities. City Council has met four (4) times since the last Planning Commission meeting. The City is in full recovery mode from Hurricane Irma and debris removal. The City is doing a great job and is almost done with the 1st sweep of all Island streets.

City Council adopted the City's budget and addressed fees for sewers and beach parking. There will be a separate meeting to address fees for the Recreation Center. City Council approved renewal contracts with Big Arts and Community Housing Resources. The City is still negotiating the renewal contract with the Historical Museum.

At its October 3, 2017 meeting, Council heard a first reading of the Formula Retail Ordinance and the second reading will be on November 7, 2017. Council also approved a conditional use permit to allow the combination of two units in Periwinkle Place that would exceed 2,000 SF.

At its November 7, 2017 meeting, Council will consider the multiple applications received for participation on the City's Charter Review Task Force.

*Chair Marks asked if there were any possibility of Lee County increasing causeway tolls for non-residents. Councilman Goss reminded the Commission that Mayor

Ruane discussed that with the Lee County Commissioners last year; they were not open to this as an option.

*Commissioner Ketteman asked if the City planned to do a post-mortem on Hurricane Irma. There were things that were done very well but some things that could be improved. Councilman Goss does not believe the Council will conduct such a post-mortem but does know the City Manager will debrief with her staff.

*Chair Marks noted he lives on the East End and he has not seen any debris clean-up on that end of the Island. Councilman Goss confirmed there has been pick-up on the East End but it depends on where you live. If you have not had it yet, it will happen soon.

*Commissioner Storjohann asked what would be done with the empty lots where there are several trees and other debris down and if the City has any leverage to require owners clean-up their lots? Director Jordan stated there is no specific requirement to clean the lots. If the situation creates a public hazard, there are options the City can employ. Commissioner Storjohann does not know if anyone has complained yet but in the neighborhoods she has seen, there are many vacant lots with downed trees and debris. The City has not received any complaints and has not undertaken any action to investigate any vacant lot issues. Director Jordan confirmed that any issues would be handled individually with the owners through Code Enforcement.

Mayor Ruane asked to be recognized in regard to the comments of the debris pick-up. Major Ruane confirmed that there had been significant debris pickup in the East End. There has been a lot done but in some of the smaller streets, it has been difficult to get the trucks down the streets.

5. Planning Commission Liaison to City Council Report

Vice Chair Smith attended all four (4) City Council meetings referenced by Councilman Goss. Most of the discussions were related to the Hurricane or the City's FY 2017/2018 budget. Vice Chair Smith did provide Council with an update from recent Planning Commission meetings, including its discussions on the proposed Ordinance to amend the Height limitation of multi-story buildings and materials requested by Vice Chair Smith in conjunction with this issue.

6. Consent Agenda

a. Approval of the September 26, 2017 Planning Commission Meeting Minutes

Vice Chair Smith noted that her "yes" vote on the proposed amendment to the Height limits was contingent upon her request for further information. Vice Chair Smith asked that the minutes be amended to reflect this contingency and her request for additional information.

Mayor Ruane noted that Vice Chair Smith brought to his attention her requests for information on properties outside of the Resort Housing District that could potentially be impacted by the amendments to the Height requirement currently being discussed by the Planning Commission. Mayor Ruane provided his support for this request to ensure the Planning Commission looks at this in a macro view and consider the impacts to the entire Island.

Vice Chair Smith moved, seconded by Commissioner Ketteman, to adopt the October 24, 2017 Planning Commission meeting minutes, as amended. The motion carried by a vote of 7-0.

7. 9:05 - Public Hearings:

a. Consideration of an application filed jointly pursuant to Land Development Code Section 82-421 Application for Variances to Land Development Code Sections 126-852, Accessory Structures, 126-874, Limitation on number of docks, and 126-894, Location from Lot Lines, to allow for a second accessory boat lift structure to be installed between two existing nonconforming boat docks. Neither the existing or proposed accessory marine structure will meet the minimum required separation between such structures, the maximum limitation on the number of docks and facilities for boats nor the minimum required equidistance location when such accessory structures are measured from the side property line, as extended into the adjacent canal.

The two subject parcels of land Lot 4 and Lots 2 and 3, Unit 4, of Sanibel Estates are located, respectively, at 630 Lighthouse Way (tax parcel no. 20-46-23-T2-01500.0040) and 632 Lighthouse Way (tax parcel no. 20-46-23-T2-01500.0020; a/k/a). The application is submitted by Attorney Steven C. Hartsell (the applicant) on behalf of Gary and Sheila Bello and 632 Lighthouse Way LLC (the property owners). Application No. 17-10296V

Director Jordan read the title into the record.

Director Jordan explained to the Commission that one of the joint applications has subsequently withdrawn its support of the application and has asked to withdraw from the application. Legal council on behalf of the remaining applicant has requested a continuance to a date uncertain.

Commissioner Ketteman moved, seconded by Vice Chair Smith, to continue the public hearing on the application to a date uncertain. The motion carried by a vote of 7-0.

b. Consideration of an application filed pursuant to Land Development Section 82-138, Application and hearing, for a Variance to Chapter 126 Zoning, of the Land Development Code, Subdivision II. - Accessory Marine Structures, Section 126-875 Waterward Extension, to allow for the reconstruction of an existing accessory dock structure with a boat lift facility to extend waterward more than 20 percent of the adjacent canal’s width.

The subject parcel of land is located at 2475 Tropical Way (Tax Parcel Strap No. 11-46-21-T1-0030A.0260). The variance application is submitted by Stokes Marine, Inc., (the applicant) on behalf of Bradford and Elizabeth Goldman (the property owner). Application No. 17-10242V

Director Jordan read the title into the record.

Director Jordan advised the Planning Commission that the applicant had requested a continuance of the matter to the Planning Commission on November 14, 2017. The public hearing will be continued to November 14, 2017 on or after 9:05 a.m.

Commissioner Heidrick did inform the Commission that he has a conflict in this matter as the applicants are business clients and he will abstain from any substantive vote on the matter.

Commissioner Ketteman moved, seconded by Commissioner deWerff to approve the applicant's request for a continuance of the public hearing to the November 14, 2017 Planning Commission meeting on or after 9:05 a.m. The motion carried by a vote of 6-1, with Commissioner Heidrick abstaining.

c. Consideration of an Ordinance Amending the Land Development Code Land Development Code Sections 126-637-Development Regulations, b. (3)Height limits for buildings, to accommodate Pitched Roofs on three-story multifamily building located n the Resort Housing District and126-639 (d) (4) (b) Articulation
of Facades and Roofs, to Restrict the AMOUNT OF ROOF area on a building that can be FLAT. Application No. 17-10103 LDC.

Director Jordan read the title into the record.

Chair Marks asked if the Commissioners had any questions or comments regarding the proposed amendment.

*Vice Chair Smith noted that she previously requested items of importance to have a broader discussion of the matter, including whether any other properties could or should be impacted by this amendment. She has not received those materials and believes to make a decision without the materials would be short-sighted. Similar to the discussions on Formula Retail, she believes it is very important for the Commission to have a thorough review and understand all the elements of the matter at hand. The Planning Commission should consider all aspects of a particular issue and Vice Chair Smith cannot vote on this amendment without the requested information.

City Attorney Ken Cuyler noted that any Commissioner can request information but it is up to a majority of the Commission to determine if it has issues with the matter at hand. In this case, Mr. Cuyler noted there would be plenty of time for the Planning Commission to further consider the matter in between Council's first reading in November and Council's second reading in December. Mr. Cuyler noted the matter could be continued to ensure the Commission has all the information it feels it needs. Staff is prepared to bring the materials back to the Planning Commission at its

November meeting, in between Council's first and second reading. If there were an issue at that time, any changes could be included prior to Council's second reading.

*Vice Chair Smith asked the Commissioners to provide feedback on her request for additional materials and if those materials would likewise be helpful to them. She voted yes thinking that the other Commissioners supported her request and the information would be provided. Mr. Cuyler confirmed that his understanding was Staff was going to get the information to her but did not. Mr. Cuyler asked that Vice Chair Smith provide Staff a specific indication of what information was needed so they could bring that information forward. Vice Chair Smith stated she wanted what was requested, as documented by the meeting minutes from October 24, 2017.

*Commissioner Storjohann noted she was disappointed in this response as Vice Chair Smith made the request several times. Commissioner Storjohann likewise would like to see the information and noted that if the Commission had voted on it, she believes there would have been a positive vote to receive the information. This would be helpful to ensure the Commission only addresses issues once and avoid future time-consuming reviews. If a formal vote is necessary, Commissioner Storjohann moves to request the materials requested prior to consideration of the matter.

*Commissioner Ketteman is surprised at the response from Mr. Cuyler. When Vice Chair Smith brought this up, he thought she would receive the information requested so his "yes" vote was implicit that this material would be provided.

Mr. Cuyler does understand the request and concurs the request was made. Mr. Cuyler's understanding was that the request was individual to Vice Chair Smith and not a Commission issue. He did not understand the entire Commission wanted to see these materials.

*Commissioner Talmage supports Vice Chair Smith's request for information. It is the tenacity of the Commissioners that ensures a thorough and broad review of information and matters.

*Commissioner Heidrick echoed the comments and noted it is only with a thorough review of materials that the Commission makes its best decisions.

*Commissioner deWerff asked how many areas could be encompassed in the materials requested. Director Jordan noted that there are approximately 78 properties located in the Resort Housing District. Conversely, there are approximately 30 properties outside the Resort Housing District that cannot be considered in conjunction with the proposed amendment.

Director Jordan apologized for not having that material in the packet. However, Director Jordan noted that the facts would not change that the proposed amendment does not apply to properties outside the Resort Housing District. He also noted that the provision of a list will not change the language of the Proposed Ordinance under consideration by the Commission.

*Commissioner Heidrick asked if he understood correctly that even with the list, the Proposed Ordinance would not change. Director Jordan clarified that the Ordinance would not be applicable to those properties outside the Resort Housing District. There was certainly no intent to not provide the information; it simply won't change the language of the Ordinance. Commissioner Heidrick noted that Vice Chair Smith simply wants to confirm that no properties outside the Resort Housing District would be benefited from this Ordinance.

Director Jordan noted that if there were properties with similar issues, the Planning Department would have identified those properties as being inclusive. The Department did not so identify.

*Commissioner Storjohann confirmed that what is before the Commission today applies only to multi-story buildings located in the Resort Housing District. She asked if there were any structures outside the District that would benefit from this Ordinance should they be destroyed. Director Jordan stated there would be no properties outside the District that would benefit.

*Vice Chair Smith clarified that her sole purpose in making the request was to look at the entirety of the Island, not just the Resort Housing District, to determine if any other properties could benefit from this same option or application. She understands those properties might be outside of the District; she is just concerned that the Commission look at the Island as a whole, regardless of where the property is located.

*Chair Marks noted that materials were hand-delivered to the Planning Commissions Secretary and asked if those materials were to be distributed to the Commission. Mrs. Enright advised it was a copy of the map of the Resort Housing District from Volume II of the Sanibel Plan; it was not a list of properties. Director Jordan again stated that the Ordinance is applicable only to those properties in the Resort Housing District. Therefore, the amendment was solely limited to three-story buildings in the District. The original Ordinance itself was specifically limited to properties in the Resort Housing District to encourage redevelopment and updates of these buildings. The Ordinance is not applicable to property in the Commercial District and not applicable to properties in the Residential District. The Ordnance relates only to properties in the Resort Housing District and therefore, the amendment are limited to that District as well. Director Jordan understands the intention of the discussions but does not believe that this Ordinance can be expanded to cover the broader view that the Commission wants to take.

Mr. Cuyler clarified that there is difference between the Resort Housing District and resort housing use. The Ordinance deals only with the District and certain regulations applied to that District. This is only an attempt to address the issue of the Ordinance as applied to the Resort Housing District. The issue of whether the intent of the Ordinance should be expanded to resort housing use is a separate issue. The Commission cannot go back as part of the original Ordinance and include this as a part of resort housing use. Regulations applicable to the Resort Housing District are the only correction at issue here.

*Chair Marks is concerned that materials were not provided in response to a Commissioner request. He now understands this Ordinance is restricted only to the Resort Housing District and not a resort housing use. He believes these properties can be identified and dealt with on an individual basis. Director Jordan confirmed there are no three-story developments outside the District and without an amendment to the permitted heights outside the District, can such a development be permitted.

*Commissioner Talmage noted that the issue wasn't per se the Height issue but instead, a pitched roof issue and if we should be looking at a pitched roof versus a flat roof issue, we should be dealing with that as a whole and not limit it to those properties in the District.

Director Jordan again clarified that the proposed amendment does not prevent pitched roofs for any other structures. This only provides relief for those properties that are constricted from having a sloped roof because of the specific height limits in the Resort Housing District. There was no intent to exclude other developments and no intent to prohibit others from taking advantage of a pitched roof; only three-story buildings that would be impacted being able to construct a pitched roof and they are all located in the Resort Housing District.

*Chair Marks asked if the Planning Commission wanted to consider the draft Ordinance and proposed Resolution today or continue the matter to review the requested materials. Director Jordan stated he was happy to continue the matter but wanted to ensure the Commission understood that even with the materials requested, the proposed amendment would not be expanded to properties outside the Resort Housing District.

*Vice Chair Smith is not sure there is a decision the Commission can fully make at this time until she has the information relative to the discussion.

Mr. Cuyler recommended the proposed amendment be removed from the November 7, 2017 City Council agenda and continued to December for a first reading. Staff can then bring the requested materials to the November 14, 2017 Planning Commission meeting.

*Commissioner Ketteman wants to be clear on the requested information. He also would like to have a review of all of the Districts on the Island and look at them broadly to see if the existing rules are prohibiting properties from taking advantage of a pitched roof. In other words, step away from the concept of just Resort Housing District and review all resort housing use properties that could be impacted by any other regulations.

*Vice Chair Smith confirmed that Commissioner Ketteman has succinctly summarized the information she requested.

Director Jordan noted this request is different from the first request but confirmed Staff is happy to bring back anything the Commission desires in order to have a thorough review.

*Commissioner Storjohann noted that the central issue driving this is the flood height requirements. As this constantly changes, we need to look at whether we should put in specific numbers versus a more general reference to flood heights as required by FEMA. There are other requirements in the Code that are tied to a specific measurement that is no longer valid because FEMA has changed the flood height requirements.

*Chair Marks notes that he believes with the information requested, the Commission can make a decision at its next meeting. He also believes that Commissioner Ketteman's suggestion to look beyond the specific issue is a good one and the Commission should be looking at this across the Island.

*Vice Chair Smith wants to be sure that the review takes out the Resort Housing District aspect, possibly creating a resolution that applies to all-Island structures. She wants to make this one review and one resolution if possible. She does not want to prolong the discussions through several applications.

*Mayor Ruane was called upon to comment. He noted that Council does not like to make decisions as a walk-on. He would like the Commission to thoroughly review this matter and now is the perfect timing because of the Hurricane and the potential impacts. The Planning Commission Liaison should have and does have the authority to bring things to City Council. City Council is desirous of Planning Commission reviewing issues on a macro view.

*Commissioner Ketteman asked procedurally if this will impact the developer who "discovered" the discrepancy. The City is not holding up that project for this amendment. Although it was the impetus for bringing the issue forward, it is not delaying development.

Director Jordan clarified his current understanding that the Planning Commission would vote on a motion and determine if this Ordinance could be applied to other Districts on the island. This is different than Vice Chair Smith's original request wanted to make it clear that he did not have this understanding of the first request.

Chair Marks moved, seconded by Commissioner Storjohann to continue the discussion on the proposed amendment to its November 14, 2017 Planning Commission meeting in order to receive and review additional materials requested. The motion carried by a vote of 7-0.

8. Report from Director of Planning

a. Planning Department Priority Task List

Director Jordan referred the Commission to the materials provided in the meeting packets.

b. Planning Department Monthly Reports

Director Jordan referred the Commission to the materials provided in the meeting packet.

c. Horizon - Important Dates

Director Jordan reviewed dates for upcoming Subcommittee meetings. The Capital Improvement Review subcommittee will meet on November 14, 2017 at 8:15 a.m. The Land Development Code Review subcommittee will meet on November 14, 2017 at 11:00 a.m. The Below Market Housing Review subcommittee will meet on November 28, 2017 at 11:00 a.m.

9. Report from Commission Members

*Commissioner deWerff asked about LDC Review Subcommittee at next meeting. He has mentioned a couple of items that needed to be on the Agenda, including the elevated swimming pool requirements and the vegetation buffer requirements. He asked the Commissioners if there were any other issues that the Commissioners would like to be included.

Director Jordan noted that Staff had suggestions for how to get that on the priority list as the priority list the PC is currently working on has been set by CC and these two are not on there.

*Vice Chair Smith is happy to ask City Council to add these to the priority list.

*Commissioner Ketteman suggested that perhaps comments should be solicited from those involved in the business that initially gave rise to this issue, specifically the Mud Bugs permit.

*Commissioner deWerff asked if the Planning Commission should look at the current zoning to determine if there is anything Council would like considered, such as are there zones that should be expanded or contracted? In other words, is there anything that needs to be reviewed to ensure zoning is not adversely impacting property in a particular district.

*Chair Marks noted that Sanibel is not large enough to have pure zoning; instead we have Districts and those can be mixed.

*Vice Chair Smith noted that as Commissioner deWerff was the Chair of the Land Development Code Review Subcommittee, he should help shape the agenda with Director Jordan.

10. Report from Commission Chair

Chair Marks and Commissioner Ketteman will not be at the November 28, 2017 meeting.

*Chair Marks is grateful that we have a fully functioning government with heads of departments that are proactive to ensure Hurricane Irma clean-up. Unlike some other communities, Sanibel is far ahead of others.

11. Public Comment

Claudia Burns, Sanibel Resident. Ms. Burns noted that another topic ripe for review are the current trends in retail to project to future needs. We should find ways to encourage and support small business to keep Sanibel's retail scene diversified from other communities.

*Chair Marks noted that in larger cities, consumers are not going to big box stores and instead are looking at more local retailers. That same trend is occurring here so anything that can be done to improve this climate should be done. For instance, many of the strip mall areas in Sanibel need more charm and attention.

12. Adjourn

The meeting adjourned at 10:30 a.m.