



City of Sanibel

800 Dunlop Road
Sanibel, FL 33957

Meeting Minutes - Final Planning Commission

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

Tuesday, November 14, 2017

9:00 AM

MacKenzie Hall

1. Call To Order

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

Present: 6 - Chair Philip Marks, Vice Chair Holly Smith, Commissioner Chuck Ketteman, Commissioner Karen Storjohann, Commissioner Dirk deWerff, and Commissioner Dirk deWerff

Absent: 2 - Commissioner John Talmage, and Commissioner Christopher Heidrick

a. Motion to Excuse Any Absent Members

Commissioner Storjohann moved, seconded by Vice Chair Smith, to excuse Commissioners Talmage and Heidrick from the November 14, 2017 Planning Commisison meeting. The motion carried 5-0, with Commissioners Talmage and Heidrick excused.

Excused: 2 - Commissioner Talmage, and Commissioner Heidrick

2. Pledge of Allegiance

Commissioner Ketteman led the Pledge of Allegiance.

3. Public Comments on Items Not Appearing on the Agenda

None.

4. City Council Liaison Report

Councilman Goss provided a brief report from Council's November 7,2017 meeting. Mayor Ruane received the Hometown Hero Award. This is a significant award from the Florida League of Cities and he is to be congratulated. Council also issued a Proclamation congratulating SCCF for its 50th Anniversary on the Island. Council also passed a motion setting a Special Election to fill the vacancy resulting from Commissioner Jennings resignation. The Special Election will be held in April, 2018. Until that time, Council will appoint someone to fill the vacancy. Whomever is chosen will have to run in the Special Election.

Council heard a first reading on an Ordinance prohibiting medical marijuana dispensaries on the Island. The Ordinance will be considered by the Planning Commisison at its meeting today and proceed for a second reading at Council's December 5, 2017 meeting.

Council heard a second reading on an Ordinance amending the Land Development Code's definition of Formula Retail. There was no discussion by Council and no public comment. Council voted to adopt the Ordinance. Commissioner Storjohann asked if Council considered the web portal for businesses as part of its consideration of the Ordinance amending the definition of Formula Retail. Director Jordan clarified that the website project was being handled administratively.

5. Planning Commission Liaison to City Council Report

Vice Chair Smith provided a brief report update on her Liaison report to City Council. Councilman Maughan raised the issue of term limits for council members. As there were only three council members present, it was suggested the Charter Review Task Force could review this as part of its process. The motion for further discussion failed due to a lack of a second as the Council members present believed it preliminary until the Task Force could finish its review. All Charter Review Task Force meetings will be open to the public.

6. Consent Agenda

- a. Approval of the October 24, 2017 Planning Commission Meeting Minutes

Commissioner deWerff moved, seconded by Vice Chair Smith, to adopt the minutes from the October 24, 2017 Planning Commission meeting. The motion carried by a vote of 5-0, with Commissioners Talmage and Heidrick excused.

Excused: 2 - Commissioner Talmage, and Commissioner Heidrick

7. 9:05 - Public Hearings:

- a. 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.

The Commissioners were polled for site visits and ex parte communications.

Commissioner Kettelman	Site Visit	No Ex-parte
Vice Chair Smith	Site Visit	No Ex-parte
Chair Marks	Site Visit	No Ex-parte

Commissioner Storjohann	Site Visit	No Ex-parte
Commissioner deWerff	Site Visit	No Ex-parte

Planning Commission Secretary Sherri Enright swore in the following witnesses:

Sean Hearn, on behalf of the applicant, Stokes Marine

James Evan, Director of Natural Resources

Craig Chandler, Planner

Jimmy Jordan, Director of Planning

Chair Marks provided the applicant with a copy of the procedures for Planning Commission hearings.

Craig Chandler, Planner, provided a brief overview of the application and entered into the record as City Exhibit C-1 a Staff Report dated November 14, 2017. This is an application for a variance to allow for the reconstruction of an existing accessory dock structure with a new boat lift facility. The new boat lift will project beyond the City's maximum waterward extension limit of 20 per cent of the adjacent canal's width.

Given the vegetation in the area, the reconstructed boat dock and additional lift is proposed for a location that least impacts shoreline vegetation, including existing mangroves. The Planning and Natural Resources Departments have made site visits and determined the variance is warranted given the circumstances of the location. Mr. Chandler confirmed there will be a post-construction inspection to ensure there was no adverse impact to the mangroves in the area.

Subject to the eight (8) conditions set forth in the Staff Report, the Planning Department recommends the Planning Commission approve the variance.

The Commissioners posed question to Staff, which were answered accordingly.

*Commissioner deWerff asked if there were an existing boat lift. Mr. Chandler noted the only existing structure is a dock. The applicant seeks to construct a boat lift to remove the boat from the water when not in use, which practice the City generally supports. Mr. Chandler also clarified that the replacement dock is in a similar footprint. However, the Applicant has agreed to reduce the width of the dock 4' wide.

*Commissioner Storjohann noted that the dock appeared to be in poor repair and asked if better maintenance would have avoided this situation. Director Evans noted that the current owners have only recently purchased the property and are not responsible for the condition of the existing dock. Director Evans also noted the City of Sanibel has been issued authority under the State to issue mangrove trimming permits for maintenance. The mangroves in question are in a gray area but mangrove

trimming is generally allowed.

*Commissioner Storjohann also asked about the typographical errors in paragraphs 5 and 6 of Applicant's responses to the Variance requirements, set forth in Attachment A of the Staff Report. The Applicant clarified the intent of the responses.

*Vice Chair Smith thanked Mr. Chandler for an excellent report. Vice Chair Smith noted the current owners should not be held responsible for lack of maintenance by former owners. She is appreciative of the Applicant's attempts to reduce the footprint of the dock and work within the standards to the extent possible.

*Commissioner Kettelman asked if there had been consideration of the impact to the vacant lot across the canal. Mr. Chandler advised that the vacant lot was not a part of this application and therefore, not considered for impact.

*Chair Marks noted that when dealing with a request for a variance, the Planning Commission should deal with the current application and not consider potential issues in the past with care or maintenance.

*Vice Chair Smith clarified that the vacant lot is not where the dock is proposed to be located. Although property lines are hard to determine, it appears the lot across from the dock is already developed.

Applicant's Presentation

The applicant had nothing further to add and agrees with the conditions set forth in the November 14, 2017 Staff Report.

There was no public comment at the hearing. The Planning Department confirmed it had received no other public comment.

Commissioner deWerff moved, seconded by Chair Marks, to approve the variance subject to the eight conditions set forth in the Staff Report and to allow Chair Marks to sign the Resolution without further Planning Commission review. The motion carried by a vote of 5-0, with Commissioners Talmage and Heidrick excused.

Excused: 2 - Commissioner Talmage, and Commissioner Heidrick

- b.** 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 in the Resort Housing District and 126-639 (d) (4) (b) Articulation of Facades and Roofs, to Restrict the AMOUNT OF ROOF area on a building that can be FLAT.

Director Jordan read the title into the record and provided a brief overview of the Staff Report dated November 14, 2017.

At the October 24, 2017 Planning Commission meeting, the Commissioners asked for additional information to clarify if there were potentially a larger application of the proposed amendment. Director Jordan explained the background of Ordinance 16-01, which established the Architectural Design standards for the Resort Housing District. These standards apply to commercial and institutional uses but do not apply to single family residences.

Director Jordan reviewed background on the requirements for pitched roofs in the districts to which the architectural standards were intended to apply. Director Jordan noted that the maximum flood elevation levels have increased. As a result, the initial height limits set forth in the Sanibel Plan for multi-family buildings in the Resort Housing District was amended in 1991. This allowed for multi-family buildings to have a maximum height of 51' instead of 45'.

For purposes of administering the zoning requirements of the Land Development Code, the City is divided into various districts. Three of these districts have separate and specific requirements with regard to maximum height limits for buildings and structures. In the commercial and residential districts, the height limit is 45'. Within these districts, it is possible to design the pitched roof within these limits.

In the Resort Housing District, the issue is that it is not possible to build a multi-family structure at the maximum height limit with a pitched roof. When the Architectural Design Standards were originally adopted, the impact of this discrepancy was overlooked. This issue was brought forward to City Council as a "glitch" that could be remedied by amending the height limit in the District above 51' solely to allow for the pitched roof. In all other districts, it is already feasible to build a structure with a pitched roof.

Director Jordan clarified that outside the Resort Housing District, the typical maximum flood elevation is 12' and therefore, with a maximum height of 45', a structure can be built with a pitched roof within the limits. The Code can be applied today as intended in all Districts except the Resort Housing District, causing the need for the amendment.

As a result, the Planning Department recommends the Planning Commission approve the proposed Resolution and Draft Ordinance and forward the matter to City Council.

The Commissioner posed questions to Staff, which were answered accordingly.

*Chair Marks thanked Director Jordan for a thorough report and providing the background of this matter.

*Commissioner Storjohann asked for clarification of the heights and what would happen if the maximum flood elevations were raised again, for example, to 20' from 18'. Director Jordan stated this is certainly possible but the Code is a living document and is intended to be amended as these types of issues that arise. Commissioner Storjohann asked if there were a way to re-write this to avoid this issue may arise from time to time. Director Jordan clarified that the height of buildings on the Island is an important feature for the Island and an important characteristic. The only way to codify the intent is to draft for current circumstances. To draft the Code to be as flexible as Commissioner Storjohann is suggesting is a different task than has been presented to the Planning Department in this matter.

*Commissioner Storjohann also asked about a recent variance issued for a residential house because the peak of that roof exceeded the height limit. Director Jordan clarified that in the variance in question, the house itself did not exceed the height limit; the variance was for an angle of light issue.

*Commissioner Kettelman thanked Director Jordan for the thorough report and stated he believed he had addressed the concerns of the Planning Commission, including the information requested. Commissioner Kettelman understands how important the height limit is and appreciates. Commissioner Kettelman asked whether commercial and institutional buildings in the Commercial District were prohibited from building three stories? Director Jordan noted that there is nothing specific to prohibit a commercial or institutional from building three stories other than the height limit. As building three stories is not specifically prohibited, Commissioner Kettelman could argue that an entity in this District could not build three-floors not because it is prohibited, but only because it would be above the existing height limit.

Director Jordan confirmed that a new building in the Resort Housing District could also build to these new standards. Commissioner Kettelman noted that it could be patently unfair to allow this for a new building in the Resort Housing District and not allow this in the Commercial District, where the entity could be facing the same issue. Director Jordan noted that there are other considerations in the Commercial District area that come into play. There are also varying levels of flood elevation in the Commercial District so some areas can build higher. For instance, if the base flood elevation is 9 feet, a commercial building would have 45' minus 9' within which to build.

*Vice Chair Smith confirmed that the Planning Department had identified no buildings outside of the Resort Housing District that could be impacted by the amendment. Mariner Pointe and Blind Pass are in the Resort Housing District and therefore, would benefit from this amendment. Vice Chair Smith asked about the Sanctuary Golf Villas. Director Jordan clarified that these properties are outside of the Resort Housing District and are subject to a PUD that is different than the rest of the Island

that has its own separate restrictions and requirements. Vice Chair Smith also asked about build-back requirements. Director Jordan explained the build-back requirements but clarified the proposed amendment has nothing to do with build-back requirements.

*Commissioner deWerff noted he met with Director Jordan about other properties that could be impacted. Director Jordan assured him there were no other properties that could be impacted. Commissioner deWerff believes the Planning Commission should recommend this amendment to City Council and then if there are other areas that should be considered, the Planning Commission can deal with that separately.

*Chair Marks noted that the Planning Commission is charged with addressing items based on current knowledge and what can be done now. Some of the hypotheticals may never come to pass. Chair Marks believes Director Jordan has provided the necessary information and the Planning Commission should make a decision.

*Commissioner Storjohann is ready for a vote on this and is comfortable that it does what is necessary. She is however, concerned that there is now a development that may be analogous. Mr. Cuyler clarified that the situation is not analogous based upon the current information. Commissioner Storjohann understands and will say it is perhaps similar. Commissioner Storjohann would also like to revisit the Commercial District standards of what they are allowed to do. There are a number of properties that need to be redeveloped and it would be a good time to review these requirements.

*Commissioner Kettelman noted that the Planning Commission needed to address this situation because of the Architectural Standards that this Commission approved. These architectural standards do not apply to the PUD and arguably, there is not an issue to fix as the initial standards did not apply to the PUD so that any change could not apply either.

Public Comment:

Larry Schoppe, Sanibel Resident. Mr. Schoppe noted that at the COTI board meeting last Thursday, he was explaining the Ordinance to the group. There was a question about the application of this standard to a current, conforming multi-story building. Would an existing building be able to simply change its roof, outside of any redevelopment. Director Jordan believes that under the standards, a building would be allowed to make those changes. The height amendment is one of aesthetics and therefore, updating the roof line of an existing building would be covered.

Claudia Burns, Sanibel Resident. Ms. Burns asked if this meant that any building to which this would apply did redevelopment would be required to have a pitched roof. Director Jordan confirmed this would be the case.

Commissioner Kettelman moved, seconded by Commissioner Storjohann, to recommend City Council approve the Ordinance amendment the Height Limits of the Architectural Design Standards for multi-story buildings located in the Resort Housing District. The motion carried 4-1, with Commissioners Talmage and Heidrick excused.

Opposed: 1 - Vice Chair Smith

Excused: 2 - Commissioner Talmage, and Commissioner Heidrick

- c. Consideration of an Ordinance amending the City of Sanibel Code of Ordinances, Subpart B, Land Development Code, Chapter 126 “Zoning”, Article VI - Districts Generally, Section 126-248 - Prohibited Uses; establishing a prohibition of medical marijuana dispensing facilities within the city boundaries pursuant to the authority of section 381.986(11)(b)(1), Florida statutes; providing for definitions; providing for conflict and severability; providing for codification; and providing for an effective date.

Director Jordan read the title into the record. Director Jordan explained that pursuant to current State regulations, cities can either approve a medical marijuana dispensary as a permitted use or ban altogether. After extensive discussion, City Council opted to prohibit the use altogether. Council has had a first reading of the proposed Ordinance but the Planning Commission needs to review as the Ordinance as it is an amendment to the Land Development Code. The Planning Commission must approve and forward to City Council, which the Planning Department supports.

The Commissioners posed questions to Staff, which were answered accordingly.

*Commissioner de Werff asked the history of the language in the proposed ordinance. City Attorney Cuyler noted that the City actually drafted the language but the proposed Ordinance does use terms in the State of Florida Constitution and relevant Statute. These are defined terms included in the regulatory structure.

*Vice Chair Smith found the conversation at the City Council meeting interesting. She found it especially interesting that a local city could prohibit the use but if a local entity did permit the use, it could not limit the number of dispensaries.

*Commissioner Kettelman thinks this is the only conclusion that can be reached today. He is frustrated with how the state has gone through this and it has been caught up in politics.

Public Comment:

Claudia Burns, Sanibel Resident. Ms. Burns agrees with Commissioner Kettelman. She has had family members who could have benefited with this. She would much prefer medical marijuana to a family member becoming addicted to opiates. She has benefited herself from this and medical marijuana is not addictive.

Vice Chair Smith moved, seconded by Commissioner deWerff to recommend City Council adopt an Ordinance establishing medical marijuana dispensaries as a prohibited use in the Land Development Code. The motion carried 5-0, with Commissioners Talmage and Heidrick excused.

Excused: 2 - Commissioner Talmage, and Commissioner Heidrick

8. Approval of the 2018 Planning Commission Meeting Schedule

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Absent: 2 - Commissioner Talmage, and Commissioner Heidrick

a. Approval of the 2018 Planning Commission Meeting Schedule

The Planning Commission moved on a verbal vote to approve the proposed 2018 Planning Commission calendar.

9. Report from Director of Planning

a. Planning Department Priority Task List

Director Jordan referred the Commissioners to the materials provided with the Agenda packet.

b. Planning Department Monthly Reports

Director Jordan referred the Commissioners to the materials provided with the Agenda packet.

c. Horizon - Upcoming Important Dates

The Planning Commission will have a meeting on November 28, 2017 and December 12, 2017. There will be no second meeting in December.

Commissioner Kettelman noted he would not be able to attend the November 28, 2017 or December 12, 2017 meetings. Chair Marks appreciates the notice and would ask that members provide advance notice.

10. Report from Commission Members

11. Report from Commission Chair

Chair Marks was proud and touched to be part of the Veteran's Day celebration of the City. City Manager Zimomra noted that in past years, only 10-15 people came to the celebration. This year there were over 100 people present.

12. Public Comment

Claudia Burns, Sanibel Resident. Ms. Burns confirmed the Below Market Rate Housing Subcommittee is scheduled to meet on November 28, 2017. Ms. Burns is pleased to see the Planning Commission Subcommittee meeting agendas posted.

13. Adjourn

The meeting adjourned at 10:51 a.m.