

CITY OF SANIBEL
ORDINANCE 11-012

AN ORDINANCE AMENDING ORDINANCE NO. 86-42 WHICH AMENDED THE ZONING MAP OF THE CITY OF SANIBEL, DESIGNATED IN SECTION 126-242 OF THE LAND DEVELOPMENT CODE, AND CREATED A SPECIAL USE DISTRICT FOR LOTS 42, 43, 57, 58, 59, 64, 65, 66, AND 67 OF SANIBEL ESTATES, UNRECORDED UNIT NO. 4, IN SECTION 20, TOWNSHIP 46 SOUTH, RANGE 23 EAST; SPECIFYING THE USES PERMITTED IN AND THE APPLICABLE REGULATIONS FOR SUCH SPECIAL USE DISTRICT; DIRECTING THE CITY MANAGER TO INDICATE SUCH AMENDMENT, WITH REFERENCE TO THIS ORDINANCE TO THE ZONING MAP; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City has adopted a Land Development Code to implement the goals, objectives, and limitations of the *Sanibel Plan*; and

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

WHEREAS, 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 *Sanibel Plan*;

NOW, THEREFORE, be it ordained by the Council of the City of Sanibel, Lee County, Florida that:

SECTION 1. Ordinance 86-42 is hereby amended, with underlining indicating additions and ~~strike-through~~ indicating deletions, as follows:

Section 3. Within the special use district hereby created, the following uses, and only the following uses, shall be permitted:

On lots 42, 43, 64, 65, 66, and 67:

[a.—h. no change]

i. A snack bar or restaurant of up to 1,000 square feet, with a maximum of 59 indoor seats and a maximum of 16 bonus outdoor dining seats.

[j.—l. no change]

...

Section 4. Within the district hereby created, the following regulations shall govern all uses and development:

a. All principal and accessory buildings shall be set back a minimum of 50 feet from the centerline of North Yachtsman Drive (a private road) and 25 feet from any land area (not open bodies of water) abutting the district. No specific setback from an open body of water shall be required, but the location of structures less than 20 feet from an open body of water shall be limited, during development permit approval, to those reasonably necessary for the operation of the marina. Bonus outdoor seating associated with the restaurant shall be setback a minimum of 8 feet from an open body of water. The existing storage shed and boat rental building located on Lot 64 need not be relocated to comply with the setback requirements established hereby; however, after the issuance of a development permit for the marina, such structures shall be treated and regulated as nonconforming structures.

[b.—c. no change]

d. The hours of operation for boat sales, boat rentals, boat service, lessons, the ship's store, and the ~~snack bar or restaurant~~ are limited to 7:00 A.M. to 7:00 P.M. The hours of operation for the restaurant are limited to 7:00 A.M. to 8:00 P.M.

[e.—p. no change]

q. In this district there shall be permitted one ground-mounted street graphic for the marina, the same as for a shopping center, except that the maximum size of the street graphic shall be 20 square feet. Individual businesses within the marina shall be permitted one wall-mounted or projecting street graphic, the same as for individual businesses within a shopping center, but with a maximum size of four square feet. ~~The snack bar or restaurant may not be advertised, by any medium, except as an incidental facility for use by customers of the marina.~~

...

Vote of Council Members:

Ruane _____

Denham _____

Congress _____

Harrity _____

Jennings _____

Date filed with the City Clerk: _____

RESOLUTION NO. 11- 13

**CITY OF SANIBEL
PLANNING COMMISSION**

IN THE MATTER OF: Consideration of amendments to Ordinance No. 86-42, Special Use District approval for the Sanibel Marina, to permit an area proposed for bonus outdoor dining.

APPLICANT: Myton Ireland on behalf of Sanibel Marina, Inc.

APPLICATION NO.: 11-6405LDC

DATE OF HEARING: October 25, 2011

ADOPTION OF RESOLUTION: November 8, 2011

WHEREAS, an application was submitted for consideration of amendments to Ordinance No. 86-42, Special Use District approval for the Sanibel Marina, to permit an area proposed for bonus outdoor dining to be located less than the required setback from an open body of water, to extend the restaurant's hours of operation and allow associated advertisement and dining to non-marina customers. The Sanibel Marina is located at 634 North Yachtsman Drive (Tax Parcel No. 20-46-23-T2-01500.0420). The subject amendments are submitted on behalf of Sanibel Marina, Inc., by the property owner Myton Ireland. Application No. 11-6405 LDC; and,

WHEREAS, it has been determined that the Applicant complied with the filing requirements of Chapter 82, Article III, Division 3, Subdivision VII, of the Land Development Code; and,

WHEREAS, a public hearing was legally and properly advertised and held on October 25, 2011 before the Sanibel Planning Commission; and,

WHEREAS, the Sanibel Planning Commission considered the recommendations of the Planning Department staff; the testimony and evidence of the Applicants and their representatives; the public and documents on file with the City; and,

WHEREAS, Chair Valiquette, Vice Chair Marks, Commissioners Chris Heidrick, Tom Krekel, Paul Reynolds and Holly Smith were present at the meeting; and Commissioner Kettelman being excused from the meeting; and,

WHEREAS, the Sanibel Planning Commission, after full and complete consideration of the evidence presented during the hearing, at which written minutes were taken, makes the finding that the Record (without exhibits) is substantially as follows:

Director Jordan read the title and reviewed the Staff Report.

Chair Valiquette reported that Mr. Ireland sent the Commissioners an e-mail and asked (1) if this needed to be entered into the record and (2) if each Commissioner was required to complete an Ex-Parte Communication form. Attorney Cuyler said the e-mail would become part of the hearing record and each Commissioner would not need to complete an Ex-Parte Communication form.

Site Visits/Ex-Parte Communications: Chair Valiquette made a site visit. Vice Chair Marks and Commissioners Heidrick, Krekel, Reynolds and Smith each made sites visits and disclosed ex-parte communications. All Commissioners disclosed that they received an e-mail from Mr. Ireland.

Sworn: Myton Ireland, applicant and owner of Sanibel Marina; Thomas McColgan, Manager of the Sanibel Marina; James Jordan, Planning Director.

Director Jordan stated this application is an amendment to the Special Use District that was approved for the Sanibel Marina and any action taken during this hearing will be a recommendation to City Council. City Council will make the final decision. Chair Valiquette asked if that is why the application isn't for a Variance. Director Jordan said it is.

1. The application is for an amendment to the Special Use District approval.
2. The Marina is a 2.18 acre parcel and lawfully existed when the City incorporated.
3. Subsequent to incorporation of the City the property owner wanted to make expansions to the Marina. As a result the Special Use District was created.
4. A Special Use District looks at uses and businesses that are not permitted in the District where they are located and they have to have an inherent benefit to the community.
5. Ordinance No. 86-42 was approved.
6. The October 25, 2011 staff report including 6 attachments was entered into the record as City Exhibit C-1.
7. The basis for today's discussion is Attachment A, the application; an aerial view and Ordinance 86-42; the development permit that was issued for the parking plan, the parking plan and a copy of the letter from the Planning Department to the owner's attorney dated July 27, 2009.
8. Ordinance No. 86-42 set parameters for the Marina's use, i.e., setbacks of 25' from any residential use; setbacks of 20' from an open body of water for any non-marina use; and parking and loading space requirements.
9. The applicant is asking for, (1) outdoor dining at the existing restaurant; (2) the outdoor tables would be arranged on an existing concrete pad adjacent to the restaurant. The pad is located less than the required 20' setback from an open body of water.
10. The applicant is proposing to install an awning over the concrete area. This awning would have to meet the same set back requirement.
11. There are some inconsistencies with Ordinance No. 86-42.
 - a. The Special Use District limits the restaurant's hours of operation from 7 A.M. to 7 P.M. The restaurant now stays open until 8 P.M. Language would be included in the Ordinance to extend the hours of operation to 8 P.M.
 - b. There is a requirement that limits the number of signs. Two signs are permitted for each business.

- c. The restaurant is limited to Marina customers and should not be open to the public; however, it is open to the public. The applicant would like to change this provision so they can be open to the public.
 - d. The restaurant is allowed 59 indoor seats; the applicant would like to add 16 seats for bonus outdoor dining.
 - e. Because this seating would be located less than the required setback from an open body of water, language would be written into the Ordinance to change this requirement.
 - f. Language would also be added to allow the restaurant to advertise and make dining available to non-marina customers.
12. Having the 16 bonus outdoor seats will not increase the intensity of use or the number of required parking spaces.
 13. 90 parking spaces are approved.
 14. A condition requires the applicant to maintain 90 parking spaces.
 15. Director Jordan reviewed the procedure the City would follow. The Planning Commission would make a recommendation to City Council and City Council would make the final decision.
 16. The Planning Department recommends approval of the application. This approval would include the six conditions included in the October 25, 2011 staff report.

Commissioner Reynolds asked for the definition of "open water". Director Jordan said the definition is any area that contains water three months out of the year. It could be a canal, a bay, the Gulf or a swale. With regard to the Special Use District approval the requirement is to ensure that any non-marina use would not be inconsistent with the Sanibel Plan. Commissioner Reynolds had difficulty understanding why there is a requirement that food service is limited to marina customers. Director Jordan stated the Marina is surrounded by a Residential District and residences. When the Ordinance was approved, the issue was compatibility; the City didn't want to interfere with adjoining property uses. This is also why there is a limit on the number of hours the restaurant can be open.

Commissioner Smith asked if there was any feedback from adjoining neighbors. Director Jordan said staff has not received any negative comments. There was one inquiry about the hours of operation. The caller didn't want the hours to be any later than 8 P.M.

Commissioner Krekel wanted to make sure the conditions would be included in the approval. Commissioner Krekel added that he knows the area and wanted to make sure the neighbors would not object to the location of the outdoor seating. Director Jordan said he doesn't anticipate any issues. The building is screened now so it is somewhat like outdoor dining.

Vice Chair Marks asked if there is any outdoor seating allowed now. Director Jordan said the only permitted seating is the 59 seats inside the restaurant. Vice Chair Marks reported that when he made a site visit there were people sitting at several outside tables and asked if this is part of the total seating or outdoor seating that hasn't been permitted. The people sitting at the tables were enjoying beverages but were not eating food. Director Jordan said Vice Chair Marks could question the applicant regarding these seats. Chair Valiquette said he believed the tables with the umbrellas were for the snack bar. Director Jordan said these seats would have to be approved as outdoor dining.

Commissioner Heidrick said the parking plan included with the packet was clear; however, when he made a site visit there were Royal Palms and areas that were carved out. Commissioner Heidrick asked if it had been determined that the number of vehicles included with the plan could be accommodated. Director Jordan said staff determined there are 90 parking spaces. In the past it has been noted that sometimes there may be a trailer or dry storage for a boat in an existing parking space. A condition of approval is that 90 parking spaces be maintained for vehicle parking. Commissioner Heidrick said during the "off season" when the greater number of boats would be out of the water the demand for parking would be lower and "in season" the boats are back in the water and there is more available parking space. Commissioner Heidrick added that parking spaces numbered 20 to 45 along the docks are shown on the plan; however, when walking along this area it doesn't appear that some of these spaces are big enough for parking because of landscaped areas. Commissioner Heidrick asked where the 90 parking spaces are located. Director Jordan reported that one of the conditions for approval is that the applicant must demonstrate that 90 parking spaces are available. The parking plan included in the hearing packet was submitted by the applicant and is the applicant's parking plan.

Applicant

Mr. Ireland stated that parking has never been a problem. During the winter people use the Marina to park their cars and go for bike rides. This is a problem that has to be monitored. The only time the parking lot is crowded is during March and April. During the summer boats are taken out of the water and in October they are back in the water. Mr. Ireland stated that when he first purchased the Marina 18 slips were "live aboards". These people worked on the Island. Some of the boats didn't have engines and were in disrepair. When the Marina was renovated "live aboards" were no longer allowed. The City required 18 parking spaces for "live aboards" and when they were no longer allowed the Marina wasn't given credit for these spaces. Mr. Ireland further stated that after the City built the public boat ramp he no longer allowed public use of his boat ramp so there are no trailers parked in Marina parking spaces. Chair Valiquette stated that Mr. Ireland has a favorable staff report and there is no question regarding the parking spaces.

Commissioner Krekel asked Mr. Ireland if he could account for 90 spaces. Mr. Ireland said he believed he could. The parking plan was done by an engineer. Commissioner Krekel asked how many seats are on the Thriller. Mr. Ireland said there are 42; his son operates the Thriller and parking is at the south end of the parking lot. There are no problems with the parking. Commissioner Krekel asked Mr. Ireland if he is willing to abide by all the conditions included in the staff report. Mr. Ireland stated the columns at the entrance are intended to be ornamental; they make a statement – you have arrived at the Sanibel Marina. An authentic naval cannon is on top of one of the columns; on the other column is an authentic naval bell; there are two polished bronze propellers on the bottom. Neighbors and tourists find these very attractive. Commissioner Krekel said one of the columns seems to be in the right-of-way. Mr. Ireland stated the column on the east side is on his property. Commissioner Krekel said lighting and sign requirements are also included in the conditions. Mr. Ireland reported that during the time he has owned the Marina they have been robbed 17 times. The total loss is \$600,000 which includes boats and engines. The Sanibel Police Department told him he needed more lighting. Another reason for the lighting is that boat owners

come in after dark and people need to see where they are walking. Commissioner Krekel said the question regarding lighting is because of the "dark sky". Lighting should be slanted downward. Mr. Ireland said all the lights in front of the restaurant are slanted downward and lights on the docks are small globes that have metal shields on top. There is glare in the parking lot because this is where the robberies take place. Attorney Cuyler stated that staff's recommendation is for approval and issuance of the requested permits but approval is subject to all conditions included in the staff report. Whether Mr. Ireland talks about these conditions today or during the Council meeting, the permits will only be issued if these conditions are met. Attorney Cuyler also informed Mr. Ireland that he needs to be familiar with all the conditions and know whether he can live with these. If he can't, he will have to explain his position to City Council.

Chair Valiquette asked if the staff report was sent to the applicant. Director Jordan said it was.

Commissioner Krekel said there are complaints outlined in a letter to Ms. Grady dated 2009. Commissioner Krekel again asked Mr. Ireland if he is willing to comply with all the conditions.

Vice Chair Marks stated in the original document, dated 1986, advertising was not allowed because the restaurant is for the use of guests. Approximately 60 to 70% of the people going to Gramma Dots are the general public. Gramma Dots is advertised in the paper every week. Vice Chair Marks asked if this stipulation could be changed. Director Jordan said it could be and is included in the conditions. Vice Chair Marks said it doesn't say advertising, the condition says any medium. Through the years the Sanibel Marina has been in violation of the regulation because it advertises in the newspaper. Vice Chair Marks said he likes the restaurant; it is one of the highlights of the Marina. Mr. Ireland stated without the restaurant there would be no Marina. The slip rentals don't cover taxes, insurance and maintenance. Chair Valiquette said this is being changed. Director Jordan said he wanted to make sure that everyone understood this is part of the recommendation from staff.

Commissioner Heidrick asked staff is the condition regarding signage applies to directional signs located on-site that are not visible from the road. Director Jordan said staff is referring to any sign that is inconsistent with the City's Sign Ordinance. Directional signage has certain requirements for the number of signs and the size of the signs. Some of the signs are too big or they are not attached to the buildings as required. The report is addressing signs that are non-conforming. Commissioner Heidrick said he wanted to clarify that there are no "live-aboards" at the Marina. Mr. Ireland stated there are no "live-aboards" and he doesn't intend to ever have "live-aboards". Commissioner Heidrick asked if the Special Use District should be amended to delete the language regarding "live-aboards" but make sure that transients can come and stay a couple days. Director Jordan said this is up to the applicant; it is their application. Mr. Ireland said he tried this when they applied for the permit for the Thriller. The City would not give credit for the 18 parking spaces for the "live-aboards". Director Jordan said you don't get credit because you stop doing something. The Marina has a specific number of parking spaces. The "live-aboards" did not create 18 parking spaces with regard to the overall parking plan. Director Jordan said when the Thriller was added the parking space issue was a wash.

Chair Valiquette said it seems there is agreement with the parking plan. Director Jordan said that is correct.

Mr. McColgan reported that the guests seated at the tables referred to by Vice Chair Marks were patrons waiting for seats in the restaurant. Sometimes there is an hour wait. The Marina makes sure there is no one serving food outdoors. They do not allow people to get take-outs from the restaurant and sit at these tables. Mr. Ireland added that they have permits to serve beer and wine at the ship store and sometimes people sit at these tables. Also, people waiting for a boat may sit at these tables. Vice Chair Marks said he did not see anyone eating food.

Mr. Ireland reported that during the 20 years prior to his purchase of the Marina there were 12 owners. This was because they couldn't make the Marina profitable. Marina maintenance is extremely high; diversification is needed, i.e., sightseeing boats, boat rentals and a restaurant.

Commissioner Smith cautioned that it might not be a good idea to delete "live-aboards" from the Ordinance because in the future Mr. Ireland might want to have this. Mr. Ireland said the problem is that it starts with two people and then family members come with cars and pets. This doesn't work. Transient traffic is much better business. Commissioner Smith said it is more difficult to have something put back in an Ordinance once it is taken out.

Commissioner Reynolds stated the Sanibel Marina could be a poster business on Sanibel that is clean, modern and efficient and represents what Sanibel stands for. Commissioner Reynolds added that he believes it is incumbent on the old, established, profitable businesses on Sanibel to be cognizant of the Ordinances and Codes and not be poster businesses for disregarding these Codes and Ordinances. The Sanibel Marina has done this. If you spend more than \$750 on a project you need to have a permit and if you didn't know this, you should. Mr. Ireland replied that he did know this. He stated he believed Commissioner Reynolds is talking about the new decks. An outside contractor wasn't hired to do the work because business was slow during the summer and this work was something his employees could do. Originally the work was to screw down existing decks. On the first two docks this was what needed to be done. However, when they started work on the third dock the stringers were rotten and had to be replaced and a new deck was built. In all, 12 docks out of 40 were done. Commissioner Reynolds stated a disappointment is that, as a new business on Sanibel, he has seen some of the old, established people do what they want to on their properties but the new businesses have to comply with the regulations. Commissioner Reynolds said he is not accusing Mr. Ireland of any criminal disregard; he believes that Mr. Ireland is one of the business community leaders on the Island and he should be aware of the Codes. Mr. Ireland asked if he could read a list of work they have done. Most of the items were done without permits but they were things that had to be done. Mr. McColgan said that Mr. Ireland works seven days a week and has said if they had to get a permit every time something needed to be done they would need to rent office space at City Hall. The amount of work and the cost is staggering. Commissioner Reynolds asked if their plan is to disregard the Code. Mr. Ireland said these are things that have to be done, i.e., clean and reseal the pavers; repaired the docks; paint the docks; constant landscaping – mulching, planting trees, removing vegetation and replanting – this is all above \$750; daily upkeep of the bathroom facilities; repair awnings – clean and waterproof.

Chair Valiquette said the \$750 requirement is for Building Permits, it doesn't relate to maintenance, landscaping or repairing toilets. The \$750 is when you build something requiring carpenters, lumber and foundations. Most of the items being referred to by Mr. McColgan don't require permits. Mr. McColgan said they keep the Marina in such good repair they have never had a State violation. Chair Valiquette said there are times when a job develops into something more than anticipated; he then gets a repair permit from the Building Department. Mr. Ireland asked Chair Valiquette if he thinks the \$750 is a very low number. Chair Valiquette agreed, but said this is a State requirement. He is going to talk with Representative Gary Aubuchon about this.

Commissioner Reynolds said his business is administered by the Department of Agriculture. During a lengthy investigation they were cited for having a fragment of the tip of a paring knife being broken off. It was so small Commissioner Reynolds couldn't see it. Commissioner Reynolds reiterated that old, established businesses should be aware of and follow Codes and Ordinances and should be leaders in the Community. Some of these businesses think they are above the law and this isn't fair.

Vice Chair Marks echoed Commissioner Reynolds' remarks. The Marina is pristine and he understands that because of the salt water maintenance costs are high. However, Ordinances and Codes are for everyone. Sometimes when people own a large piece of land, they feel they can do what they want. Most of what Mr. McColgan mentioned is maintenance and permits aren't needed; however, before the Marina begins a project it would be best to check with the Planning Department regarding permits. This shows respect for City government and sets an example for new businesses.

Commissioner Krekel asked Mr. Ireland if he thinks he will get feedback from customers regarding outdoor seating close to the water where boats are docked. Mr. Ireland stated he didn't believe so because many people say this is the place for outdoor dining; everyone wants a Marina with outdoor dining. Mr. McColgan said many of the guests like the action or the spot light. They want their boat docked in this area so they can sit on the back, read the paper, etc. Commissioner Krekel said if you don't know what all the conditions are, you need to read and understand them. 10 of the 13 conditions require action on the applicant's part. Compliance of some of the conditions requires money to be spent. The Commission will not approve the application unless all conditions are met.

Commissioner Reynolds said most of the conditions can be easily done. One caution is the lighting. Commissioner Reynolds suggested that the applicant develop a security lighting plan that conforms to Sanibel's lighting requirements.

MOTION: Chair Valiquette moved to approve Application No. 11-6405LDC including all the conditions, to close the hearing and to bring a Resolution back to the Commission on November 8, 2011. The application would then go to City Council for their approval. Vice Chair Marks seconded the motion. The motion carried by a unanimous roll call vote.

Commissioner Reynolds said most of the conditions can't be answered by "Yes" or "No". They are subjective and require negotiated actions and compliance. The negotiated actions may or may not be acceptable. Chair Valiquette said this would be determined during the November 8, 2011 meeting. On November 8, 2011 if the applicant has concerns with any of the conditions, these can be discussed and/or

changed and the application can be moved to Council. Attorney Cuyler said this is correct. Attorney Cuyler added that after Council approval there will be conditions that the applicant will work with staff on. There may be some give and take regarding how these will be accomplished in accordance with the Code.

Commissioner Heidrick said it would be a good idea for the applicant and staff to meet on site and work through the conditions so there is a complete understanding of what is being requested.

The vote on the motion was taken at this time.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission of the City of Sanibel, after full discussion and review of the proposed amendments to Ordinance No. 86-42, Special Use District approval for the Sanibel Marina, recommends that City Council enact the following proposed amendments:

1. To increase the maximum number of seats at the restaurant, from 59 indoor seats only to 59 indoor seats only plus 16 bonus outdoor dining seats (Section 3.i. of Ord. 86-42);
2. To allow an existing concrete area, located 8 feet in lieu of the required 20 feet setback from an open body of water, to be utilized for the proposed bonus outdoor dining (Section 4.a. of Ord. 86-42);
3. To permit the operation hours at the restaurant to be extended by 1 hour from 7 A.M. to 8 P.M. in lieu of 7 A.M. to 7 P.M. (Section 4.d., of Ord. 86-42);
4. To advertise and make dining available to non-marina customers, which is currently prohibited (Section 4.q. of Ord. 86-42);

and that the Applicant is required to comply with the following conditions:

1. The following issues shall be abated or resolved before a development permit is issued for the bonus outdoor dining:
 - a. All signage in excess of one ground-mounted sign and one wall-mounted sign for each separate business approved by the Special Use District shall be removed.
 - b. The Business Tax Receipt (BTR) for the Ship Store shall be amended to indicate a total floor area of 840 SF.
 - c. Applicant shall either 1.) submit after-the-fact development permit and building permit applications for the entry columns on North Yachtsman Drive or 2.) remove them.
 - d. Applicant shall submit a parking plan that shows 90 unencumbered off-street parking spaces on-site.
 - e. The boat trailer and boats stored within landscape buffers shall be removed and placed only in developed areas that are not designated for parking or other authorized uses accessory to the marina.

- f. Specific plans for outdoor lighting, demonstrating compliance with the Land Development Code, shall be submitted for approval. All unauthorized outdoor lighting shall be removed.
 - g. Applicant shall submit an after-the-fact development permit application, if applicable, and a building permit application for the dock repair.
 - h. The applicant shall submit plans for the proposed awning that depicts the appearance, dimension, and location of the awning.
2. Comply with all applicable standards of Section 126-1031, Bonus Outdoor Seats for Dining, of the Land Development Code, including:
- a. Applicant shall amend the Business Tax Receipt for the restaurant to reflect the additional bonus outdoor seats.
 - b. The bonus outdoor seating shall not interfere with on-site vehicular and pedestrian circulation, parking and loading areas; nor block or restrict doors or other means of required emergency egress.
 - c. Microphones, loudspeakers or amplifiers shall not be permitted. Noise disturbances are prohibited, pursuant to section 30-64 of the Code of Ordinances and section 126-652 of the Land Development Code.
 - d. Applicant must purchase required additional sewer capacity prior to issuance of development permit.
 - e. Once obtained, the initial development permit required for bonus outdoor seats will expire after 24 months and the use shall be abated. To continue use of outdoor bonus seats, the applicant must apply for and obtain a subsequent development permit for bonus outdoor seats that renews, or approves with modified conditions, use of bonus outdoor seats.
3. Bonus outdoor seating shall be located only as depicted on the approved site plan.
4. Bonus outdoor dining seats and tables shall not be moved indoors to increase the number of permitted indoor seats, nor indoor seats placed outdoors to increase the number of outdoor dining seats.
5. Exotic species of plants which out-compete or otherwise displace native plants, including Brazilian Pepper, Melaleuca, Earleaf Acacia, Lead Tree, Java Plum, Air Potato, Exotic Inkberry and Mother-in-Law's Tongue (Bowstring Hemp), shall be removed from within the boundaries of the Special use District. The property shall be kept permanently free of such exotics.
6. Provide an as-built survey demonstrating compliance with the standards of the Special Use District, including setbacks and the number of parking spaces, prior the issuance of a Completion Certificate.

The foregoing Resolution was adopted by the Planning Commission upon a motion by Planning Commission Member _____ and seconded by Planning Commission Member _____, and the vote was as follows:

Christopher Heidrick	_____	Paul Reynolds	_____
Chuck Kettelman	_____	Holly Smith	_____
Tom Krekel	_____	Michael Valiquette	_____
Phillip Marks	_____		

DULY PASSED AND ADOPTED this 8th day of November 2011.

SANIBEL PLANNING COMMISSION

SIGNED: _____
Chairman

Date Signed

Approved As To Form: _____ /s/ _____
City Attorney

10/27/11
Date Signed

Date Filed With City Manager: _____