

RESOLUTION NO. 12-01

**CITY OF SANIBEL
PLANNING COMMISSION**

IN THE MATTER OF: Consideration of a Development Permit application to construct an elevated swimming pool with a deck higher than 7' above predevelopment grade in conjunction with the development of a new single-family dwelling.

APPLICANT: Mark Naumann, Carlton-Naumann Homes, for David and Merle Brown.

APPLICATION NO.: 12-6549DP

CONCLUSION OF HEARING: February 14, 2012

ADOPTION OF RESOLUTION: February 28, 2012

WHEREAS, the Planning Commission heard Application No. 12-6549DP to consider a Development Permit application submitted by Mark Naumann, Carlton-Naumann Homes, on behalf of property owners David and Merle Brown to construct an elevated swimming pool and deck accessory to a new single-family dwelling. The proposed development is required to be considered by the Planning Commission as a long-form application pursuant to Land Development Code Section 126-1032, Elevated Swimming Pools, Requirements and Procedures, and to be reviewed per the "neighborhood compatibility" requirements relevant to Land Development Code Section 86-43, Appearance of Structures, Size and Mass of Structures,

The subject property is located at 3577 West Gulf Drive (tax parcel no. 28-46-22-T3-00005.001A).

WHEREAS, it has been determined that the Applicant has complied with the filing requirements of Chapter 82, Article IV, Development Permits, Subdivision III, Long Form of the Land Development Code; and

WHEREAS, the Sanibel Planning Commission, after full and complete consideration of the discussion and evidence presented at the hearing on February 14, 2012 at which written minutes were taken, makes the finding that the Record (without exhibits) is substantially as follows:

Vice Chair Marks called the meeting to order. In addition to the Vice Chair the following were present: Commissioners Christopher Heidrick; Chuck Kettman; Tom Krekel; Paul Reynolds; and Holly Smith; Planning Director James Jordan; City Attorney Ken Cuyler; Administrative Assistant Ashley Price and several members of the public. Chair Valiquette was excused from the meeting.

Mr. Jordan read the title.

Ex Parte: Commissioner Reynolds disclosed an Ex-parte Communication.

Site Visits: All Commissioners made site visits.

Sworn: Director Jimmy Jordan, City Planner; Roy Gibson; Mark Naumann, Applicant and representative for David and Merle Brown.

Roy Gibson reported the following:

1. The Staff Report was entered into the record as City Exhibit 1.
2. The applicant filed joint applications for (1) the demolition of a single family residence located at 3577 West Gulf Drive, and (2) the redevelopment of a new single family residence with an elevated swimming pool.
3. The application for the demolition is not being considered today.
4. The subject application for the new single family residence is being referred to the Planning Commission because of the elevated swimming pool.
5. The Sanibel Code requires that new residences or existing residences proposing an elevated swimming pool higher than 7' above pre-development grade be considered by the Planning Commission as a long form development permit. The applicant must demonstrate that the proposed swimming pool meets the standards of the Sanibel Code.
6. Mr. Gibson reviewed the standards for this permit.
7. Page 3 of Staff Report shows zoning information for the property.
8. The subject property is primarily in the Gulf Beach Ridge Ecological Zone.
9. A single family dwelling is permitted on the property, which is slightly less than 1.5 acres.
10. The proposed coverage in the developed area was provided in the Staff Report.
11. The base flood elevation is 12 feet; however, the Florida Building Code requires a higher elevation than 12 feet.
12. The applicant is proposing to be above the Florida Building Code requirement; 1 foot above the minimum Florida Building Code.
13. The Planning Department has determined predevelopment grade to be 5.9 feet above sea level.
14. The height of the proposed residence is to be 35 feet above predevelopment grade, which is the maximum elevation permitted.
15. Setbacks are shown to be in conformance with the minimum requirements.
16. In this case, the setback from the Gulf of Mexico is the 1974 Coastal Construction Control Line.
17. Page 4 of the Staff Report shows the size of the proposed residence.
18. The living area is proposed to be slightly less than 5,600 square feet.
19. Total floor area is just over 13,700 square feet.
20. The residence is subject to a review of the criteria in Section 86-43, Appearance, size and mass of structures.
21. Staff reviewed the proposed residence in context with the established neighborhood and provided an analysis of the applicant's review of Section 86-43.
22. Staff has determined that the proposed residence conforms to the proposed criteria in Section 86-43.
23. The Planning Department also completed an assessment of the elevated swimming pool in context with Section 86-43 and the elevated swimming pool standards in Section 126-1302.

24. The height does conform; it cannot exceed 2 feet above the minimum required flood elevation or the Florida Building Code requirements.
25. The applicant conforms with Section 86-43.
25. With respect to design guidelines, the Planning Department reviewed the proposed plans and found that the applicant's plan does meet the guidelines.
26. In regard to the landscape requirements, the Planning Department raised issues with the applicant's landscape/vegetation plan.
27. This plan was also reviewed by the Natural Resources department.
28. These comments were provided with the Staff Report, as Attachment F.
29. Subsequent to the distribution of our Staff Report, the applicant revised their landscape plan and submitted the revision for staff's review.
30. On February 13, 2012, a memorandum was received from the Natural Resource Department finding that the revised landscape plan is adequate and resolves the issues that were previously identified.
31. We would like to submit this memorandum as City Exhibit 2.

Vice Chairman Marks asked if the Commission would be provided a copy of the revised plan. (A copy of the revised landscape plan was supplied to the Commission.) Attached to this memorandum is a copy of the revised landscape plan. Additional plantings are proposed to vegetate the elevated shell area seaward of the coastal setback line and to screen the elevated pool. The revised plan meets the elevated swimming pool design requirements, landscape requirements, and height limitation requirements. Vice Chair Marks was concerned because the size of the revised plan was difficult to read. Mr. Gibson stated that a full-size copy was provided to staff.

Attorney Cuyler noted that the applicant has a larger copy of the landscape adjustments/updates.

Director Jordan mentioned the issues with the site design in Natural Resources, i.e., the driveway was relocated to avoid impacting some very large trees. This could be a condition of the approval.

Vice Chair Marks felt that the two Joewoods should not be transplanted and the large area of shrubs and trees should not be used as a driveway path as originally proposed.

Director Jordan stated that the applicants have revised their site plan to take the path of least resistance. Mr. Gibson stated this was incorporated in the Staff Report as Attachment C. With respect to the site plan, the applicant provided the revisions recommended by the Natural Resources Department. The applicant has been informed that they must provide an engineered drainage plan. If the Planning Commission agrees with staff's analysis and finds that this application meets all other requirements of the Land Development Code, the Planning Department recommends that a condition be included requiring the applicant to provide a drainage plan prior to the issuance of the Development Permit. This plan will be reviewed and approved by the City's engineering office.

Mr. Gibson reviewed the attachments included in the Staff Report:

1. Attachment A is an aerial location map of the property.
2. Attachment B is a copy of the application for the proposed residence and elevated swimming pool.
3. Attachment C is a copy of the applicant's proposed site plan as revised for the driveway, as recommended by the Natural Resource staff.
4. Attachment D is elevations with landscaping. These will be revised to incorporate the new landscape plan.
5. Attachment E has been revised.
6. Attachment F is the comments from the Natural Resources Department.
7. Attachment G is the elevation views of the proposed residence and elevated swimming pool.
8. Attachment H is the applicant's response to the criteria for the size and mass of the residence and elevated swimming pool.
9. Page 10 is a summary of the application conforming to the criteria for elevated swimming pools.
10. Conditions are listed on Page 11.
11. Staff recommends that at least 21 conditions be incorporated in the Development Permit.
12. Condition #9 should be revised to reflect the revised landscape plan – "The vegetation landscape plan shall be installed in substantial conformance with the revised plan as approved by the Natural Resource Department, see City Exhibit C2."
13. Under drainage Condition #19 should be added – "The subject property is located within a localized drainage area and prior to issuance of the Development Permit, the drainage plans are subject to review, revision and final approval by the City's Engineer in the Department of Public Works".

Commissioner Questions/Comments

Commissioner Krekel

1. The lots are deep but narrow in width.
2. The northern end of the west side of the house appears to be close to the property line.
3. Asked if the property to the west has 10' from their house to the property line. Mr. Gibson said it does.
4. Will the proposed house begin where the present house is? Mr. Gibson said it would.
5. Is the Planning Department satisfied with all the distances? Mr. Gibson stated the Department is satisfied with all the distances.

Commissioner Reynolds

1. West Gulf Drive doesn't demonstrate the frailty of Section 86-43. The Commission discussed this Section for at least 18 months. This Section is very subjective. It is dependent on who the current Planning Director is and how the Commissioners' opinions are weighted. Hopefully, someday Section 86-43 will be revised.

Commissioner Ketteman

1. Complimented Mr. Gibson on the thoroughness of his report.

2. Agreed with Commissioner Reynolds regarding Section 86-43 but added that this Section does provide some guidelines.

Vice Chair Marks

1. Complimented staff on the report and stated that the landscaping is very important.
2. This home is 23 ½ years old and there are enormous exotics and invasive vegetation that have taken over the property.
3. Now is a good time to keep invasive vegetation at bay and establish native vegetation.
4. Natural Resources Department's evaluation was excellent.

Commissioner Krekel

1. When the Mimm's home was being debated it turned into a review of Section 86-43. The Commissioners tried to be more objective.
2. The weighting of the Planning Commission and Director does affect the outcome.
3. Adding more objectivity protects property owners.
4. Agreed with Commissioner Reynolds that a point of revision was never reached.

Mr. Gibson stated this is the third application being considered by the Commission since the Ordinance was amended for elevated swimming pools.

Vice Chair Marks

1. It would be nice if everything could be quantified but taste is not quantifiable.
2. You just know it when you see it.
3. Look at the neighborhood; this is relevant.
4. Houses on this part of West Gulf Drive are very large and most of them are Mediterranean in style with pools.

Applicant Presentation – Mark Naumann

1. Represented Dave and Merle Brown.
2. Has been a builder and designer on the Island since 1986.
3. Knows the Land Development Code very well.
4. Worked closely with the Planning Department and tried to meet the requirements of Section 86-43 as well as requirements for the elevated pool.
5. Have also met the requirements regarding landscaping and issues raised during the past few days.
6. Are in agreement with all the recommended conditions for the development of the single family home.

Motion: Commissioner Reynolds moved to approve Application No. 12-6549DP; to close the hearing and to have staff compose a Resolution incorporating the conditions recommended by staff and to present the Resolution to the Planning Commission. Commissioner Smith seconded the motion. The motion carried by a unanimous roll call vote; Commissioner Valiquette being excused.

Commissioner Kettman asked if any public comment had been received regarding this application. Mr. Gibson reported that staff has had inquiries regarding the

application asking for additional information. These inquiries were addressed. There have been no general comments.

Commissioner Smith asked if there were any comments from adjoining neighbors. Mr. Gibson replied that one neighbor inquired and asked for a copy of the plans. There has been no subsequent discussion.

Commissioner Heidrick asked, for clarity, if the motion would be approved during this meeting. Attorney Cuyler stated that staff would draft a Resolution and it would be returned to the Commission during the February 28, 2012, meeting for adoption. The hearing is closed; however, Commission questions could be addressed. When someone is pressed for time there have been occasions when the Resolution is prepared for the same meeting as the hearing. There hasn't been any indication of this application being pressed for time.

Commissioner Krekel stated that recently there have been two applications that the applicant requested the Commission to make a decision on during the hearing and Resolution during the first hearing. The Commission agreed to the requests.

Vice Chair Marks stated the left elevation on Attachment G is interesting. It looks like the neighbor lives next to a commercial building. Commissioner Krekel said he noticed this too. The other side of the house is charming. Vice Chair Marks stated the applicant was very quick to respond to landscaping issues.

Commissioner Kettelman stated that with vegetation he wasn't sure if the neighbor would see the side of the house.

There were no public comments.

The vote was taken at this time.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Sanibel, that all Development Permit Criteria and Conditions have been met and that Application No. 12-6549DP is **APPROVED** with the following conditions:

1. The proposed residence and elevated swimming pool shall be developed in substantial conformance with the revised site plan prepared by Carlton Naumann Homes dated February 7, 2012, and the accompanying preliminary construction plans and elevation drawings prepared by Lundin Design Group and provided with the Staff Report.
2. Prior to the issuance of a completion certificate or certificate of occupancy, the applicant shall provide an as-built survey of the subject parcel that shows compliance with height, elevation, setbacks, developed area/vegetation removal, and impermeable area standards.
3. Prior to issuance of a building permit for the proposed residence and elevated accessory swimming pool and deck, a copy of the final permit to proceed with

construction, issued by the Florida Department of Environmental Protection (for construction activities seaward of the Coastal Construction Control Line), shall be provided to the City.

4. The development shall comply with all applicable standards and requirements of the Land Development Code.

ELEVATED POOL

5. The height of the deck for the proposed elevated swimming pool and spa shall not exceed 18.27' NAVD.
6. A screen enclosure is not permitted for the elevated swimming pool, spa, and deck of the single-family residence.

HEIGHT

7. The predevelopment grade for this site is 5.9 feet NAVD above Mean Sea Level. The height of the proposed residence shall not exceed 40.9 feet NAVD above Mean Sea Level. The chimneys shall be designed only to the minimum height necessary for compliance with the building code. In no event shall a chimney exceed a height of 45 feet NAVD above Mean Sea Level.

FLOOD/FIRM REQUIREMENTS

8. Elevation of the lowest horizontal structural member of the proposed residence must be a minimum of 17.1 feet NAVD above Mean Sea Level. Fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. The design must meet or exceed the following minimum criteria:
 - a. Provide a minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding;
 - b. The bottom of all openings shall be no higher than 1 foot above grade; and,
 - c. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic entry and exit of flood waters.

All construction materials and all interior wall, floor and ceiling materials used or installed below the base flood elevation shall be resistant to flood damage. Any enclosed area below the base flood elevation shall be non-partitioned (except as necessary to provide secure, limited storage area and building access) and void of utilities, except for essential lighting (i.e., outdoor type switches and fixtures). The area cannot be temperature controlled.

Any enclosed stairwell shall be constructed of fire-resistant materials.

The space below the base flood elevation shall not be used or designed for, nor provide facilities for, human habitation, but shall be designed to be useable only for parking of vehicles, building access, or passive storage. Storage area use shall be restricted to the storage of incidental items which can withstand exposure to the elements and that have low flood damage potential. These items would

include lawn mowers, garden equipment, bicycles, and other low damage items for which, under most circumstances, flood insurance coverage is not provided.

9. The vegetation landscape plan shall be installed in substantial conformance with the revised plan as approved by the Natural Resource Department, see City Exhibit C2.
10. Gopher tortoise activity (1 active burrow, 1 recently active burrow) was observed in the beach dune area (seaward of the CCCL). To protect the tortoises during demolition and construction, orange Tenax construction fencing must be installed seaward of the silt fence across the length of the property to prevent contractors from disturbing the area.
11. A vegetation buffer shall be installed and permanently maintained to effectively screen the proposed residence and elevated pool from adjacent properties, West Gulf Drive, and the Gulf Beach area. The proposed vegetation shall consist of primarily native (75% minimum) tall, medium, and small trees, shrubs, and groundcovers that will effectively screen the residence and pool.
12. The elevated, primarily unvegetated, shell area seaward of the CCCL should be revegetated with appropriate, low-growing dune plants and gopher tortoise forage species. The use of herbicide seaward of the CCCL is not permitted except as needed to treat invasive exotic species.
13. It is strongly recommended, but not required, that all FLEPPC-listed Category I and II pest plants be removed from the property, particularly those seaward of the CCCL including asparagus fern (*Asparagus aethiopicus*), life-plant (*Kalanchoe pinnata*), oyster plants (*Tradescantia spathacea*), exotic agaves (*Agave sp.*) and umbrella tree (*Schefflera actinophylla*). Transplanting of these species, as proposed, is not recommended.
14. Removal of mature Australian pines seaward of the CCCL is strongly encouraged, but not required. A vegetation permit must be obtained for removal or trimming of vegetation seaward of the CCCL.
15. Landscaping of the parcel, even landscaping after the issuance of a Certificate of Occupancy or a Completion Certificate for the approved development, shall be in accordance with the vegetation requirements and standards of the Land Development Code.
16. The use of St. Augustine, Bahia, Bermuda or Zoysia or other non-native sod or grasses shall be limited to no more than 4,000 square feet.
17. All exotic species of plants which outcompete 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 parcel and the parcel shall be kept permanently free of such exotics.
18. Revegetate any area of the lot, particularly the front yard, which may be cleared due to construction activity in excess of the maximum area permitted.

DRAINAGE

19. The subject property is located within a localized drainage area, and prior to issuance of a Development Permit, drainage plans are subject to review, revision, and final approval by the City Engineer and the Department of Public Works. The roadside drainage must be maintained to City specifications. A culvert to achieve this may be required by the City.
20. Fill shall be limited to the immediate house and driveway area; toe of slope must not extend more than 4 feet beyond roof overhang or more than 2 feet from either side of driveway; angle of slope cannot be steeper than 4:1.

OUTDOOR LIGHTING

21. All outdoor lighting shall be installed in such a manner and be so shielded that the cone of light shall fall, substantially, within the perimeter of the property and landward of the Coastal Construction Control Line. Through the use of shielding and limitation upon intensity, ambient light traveling outward and upward, producing a sky glow, shall be reduced to the greatest extent possible without unduly interfering with the intent and purpose of the outside lighting. Tinted glass shall be installed on all windows and glass doors within line of sight of the Gulf Beach.

EXPIRATION OF PLANNING COMMISSION ACTION: In accordance with Land Development Code Section 82-424. Action on application shall expire if any necessary development permit to implement such approval is not obtained within a period of 12 months after Planning Commission approval, or, if a development permit is obtained within 12 months, upon expiration of the development permit.

EFFECTIVE DATE OF PLANNING COMMISSION ACTION: In accordance with Land Development Code Section 82-424. All actions of the Planning Commission, including those which constitute final decisions, shall be effective upon the date of filing of the adopted resolution with the City Manager, or at a later date if provided in the resolution. However, permits authorized by final decisions shall not be issued until the expiration of the time-period for filing an appeal to City Council, if applicable, has elapsed, or if an appeal has been timely filed, until the City Council has finally disposed of the matter.

RIGHT TO APPEAL PLANNING COMMISSION ACTION: In accordance with Land Development Code Section 82-98. Appeals The applicant is hereby advised that the following persons have the right to appeal a final decision of the Planning Commission adverse to their interests: 1) The applicant; 2) The owner of the property proposed for development; 3) The developer of the property proposed for development; 4) Any other person residing upon, or owning property within the City, or owning or operating a business within the City, who participated by written comment before or at the Planning Commission hearing or who participated in person or through an authorized agent at the Planning Commission hearing.

FIFTEEN DAY TIME LIMIT FOR FILING APPEALS OF PLANNING COMMISSION ACTION: In accordance with Land Development Code Section 82-98. Appeals. The appeal shall be

filed in writing with the City Manager within fifteen (15) days after the date that the Planning Commission decision was filed; and the appeal filing fee shall be paid as a prerequisite to filing.

The foregoing Resolution was adopted by the Planning Commission upon a motion by Commissioner Heidrick seconded by Phillip Marks and the vote was as follows:

Christopher Heidrick	<u>Yes</u>	Paul Reynolds	<u>Yes</u>
Chuck Ketteman	<u>Yes</u>	Holly Smith	<u>Yes</u>
Tom Krekel	<u>Yes</u>	Michael Valiquette	<u>Yes</u>
Phillip Marks	<u>Yes</u>		

DULY PASSED AND ADOPTED this 28th day of February 2012.

SANIBEL PLANNING COMMISSION

Signed: Michael Valiquette 2/29/12
Chair Person Date Signed

Approved As To Form: Kenneth B. Gf 2/21/12
City Attorney Date Signed

Date Filed With City Manager: 2/29/2012