



## Permitting Process Review Committee A Subcommittee of the Planning Commission

Planning Department Staff Report

For  
June 12, 2012

### Background

Pursuant to Land Development Code Section 82-301, the Planning Commission is responsible for reviewing the permitting process annually and providing appropriate recommendations to City Council for amendments to the Land Development Code that will enhance the permitting process generally and specifically to accomplish the goals, objectives and policies of the Sanibel Plan.

### Issue

How to provide due process in the consideration of quasi-judicial matters, while expediting applications where there is little or no controversy?

### Analysis

Pursuant to Resolution No. 08-070, Revised Rules of Procedure for the City of Sanibel Planning Commission there is already a procedure in place whereby certain new application or amended approval can be processed in the form of a Summary of Disposition. A copy of this Resolution is included with this report as **Attachment A**.

The Summary of Disposition procedure is intended to provide a due process review and consideration of non-controversial quasi-judicial matter in a timely manner. However, there are qualifying criteria for which this procedure can only be implemented. The criteria for the Summary of disposition are as follows:

1. The application has to be complete, as determined by City staff;
2. The applicant and staff must agree to all terms and conditions for the approval of the application; and
3. No person eligible to receive notice by mail (adjacent property owner within 300 feet of the subject property involved with the application) has objected in writing.

If there is no opposition, the item may be approved on the basis of the application and staff report, and if available, a proposed resolution, without the necessity of further testimony or evidence. However, if there is opposition by a person whose interests are substantially affected by the application request, or if

the applicant, staff or a Commissioner desires to pull the application from the agenda the quasi-judicial matter has to be scheduled and heard at regular notice time and date on a future Planning Commission agenda.

### **Final Comments**

The Planning Department has and will continue to incorporate ways of improving upon the efficiency of the permitting process in manner that is both responsive and consistent with the Sanibel Plan.

CITY OF SANIBEL

RESOLUTION NO. 08 - 070

**A RESOLUTION ADOPTING REVISED RULES OF PROCEDURE FOR THE CITY OF SANIBEL PLANNING COMMISSION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Sanibel Planning Commission, at its regularly scheduled meeting on May 27, 2008, approved Planning Commission Resolution 08-06 to adopt the revised Rules of Procedure for the Planning Commission;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Sanibel, Florida:

**SECTION 1.** The revised Rules of Procedure of the City of Sanibel Planning Commission, approved and adopted by Planning Commission Resolution 08-06 on May 27, 2008, a copy of which is attached hereto and incorporated herein as Exhibit "A", is hereby approved and adopted.

**SECTION 2.** Effective date.

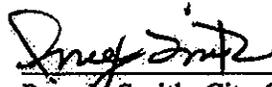
This resolution shall take effect immediately upon adoption.

**DULY PASSED AND ENACTED** by the Council of the City of Sanibel, Florida, this 3<sup>rd</sup> day of June, 2008.

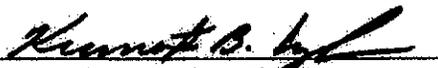


Mick Denham, Mayor

AUTHENTICATION:



Pamela Smith, City Clerk

APPROVED AS TO FORM:   
Kenneth B. Cuyler, City Attorney

5/28/08  
Date

Vote of Council Members:

Denham	_____	yea	_____
Ruane	_____	yea	_____
Jennings	_____	yea	_____
Johnston	_____	yea	_____
Pappas	_____	yea	_____

Date filed with City Clerk: June 3, 2008

**EXHIBIT "A"**

**RULES OF PROCEDURE**

**CITY OF SANIBEL**

**PLANNING COMMISSION**

**ARTICLE I**

**Purpose & Scope**

**Section 1.01. Purpose.** The purpose of these rules of procedure is to implement the provisions of the Sanibel Charter; the Sanibel Plan; Chapter 14, Article I of the Sanibel Code; Sanibel Land Development Code and applicable provisions of state law, specifically Chapter 163, Part II, so as to provide a fair and expeditious method of carrying out the planning and plan implementation functions assigned by the City Council to the Sanibel Planning Commission (the Commission).

**Section 1.02. Scope.** These rules shall apply to all matters within the jurisdiction of the Commission except to the extent it may be inconsistent with a provision of a state or federal law or the Sanibel Charter, the Sanibel Plan, or a Sanibel ordinance.

**ARTICLE II**

**Membership**

**Section 2.01. Qualifications, appointments, number, terms.** The qualifications for membership on the Commission, the number of members and their terms, and the method of appointment of members are specified in Chapter 2, Article III, Division 2. Sanibel Code of Ordinances.

**Section 2.02. Attendance.** As also specified in Sec. 14-6, Sanibel Code of Ordinances, membership on the Commission is forfeited for an unexcused absence from three consecutive regular meetings. When a member misses three consecutive regular meetings and the absences are unexcused, the Chair of the Commission shall immediately report said circumstances to the Sanibel City Council, so that a replacement may be appointed.

An unexcused absence is one not excused by the Chair for good cause in advance of the time the meeting was scheduled to begin.

### **ARTICLE III**

#### **Officers, Secretary, City Staff**

**Section 3.01. Officers-Type and duties.** The officers of the Commission shall consist of a Chair and a Vice-Chair. The Chair shall preside at all meetings of the Commission and shall have the duties normally conferred by parliamentary usage on such officers. In the absence of the Chair, the Vice-Chair shall perform the duties. The Chair, or a Commission member designated by the Chair, shall also, when deemed necessary, report to the City Council on activities of the Commission.

**Section 3.02. Officers-Election.** Nominations of officers shall be made by the Commission at the annual organizational meeting, and elections shall follow immediately thereafter. Officers shall be seated immediately following their election.

**Officers shall be elected by a majority of the members present at the organizational meeting, and they shall serve for one year at the pleasure of the Commission or until their successors take office.**

**Vacancies in offices shall be filled as quickly as possible by the regular election procedure.**

**Section 3.03. Secretary.** Under Sec. 14-10 of the Sanibel Code, the City Manager appoints a non-member of the Commission as Secretary, who shall be an employee of the City. It is the duty of the Secretary to keep a record of proceedings, transmit its recommendations when directed by the Chair to the City Manager and City Council, maintain an updated complete file of all Commission proceedings and perform such other duties as are usually performed by the Secretary of a deliberative body.

**Section 3.04. City staff.** The City Manager employs members of the Planning Department and other departments to review, prepare staff reports on, and to present or assist in the presentation of applications or other agenda items to the Commission. Presentations by City Staff will be conducted by the person or persons so designated by the City Manager.

## **ARTICLE IV**

### **Meetings**

#### **Section 4.01. Regular Meetings.**

**A. Place.** Regular meetings of the Commission will be held in MacKenzie Hall (City Council Chambers), City Hall, 800 Dunlop Road, Sanibel, Florida, or at such other place as is designated in the public notice of the meeting.

**B. Date and Time.** Regular meetings will be held at 9:00 A.M., on the second and fourth Tuesdays of each month, except as follows:

1. Regular meetings shall not be held when the scheduled date is a City Holiday;
2. Regular meetings shall not be held on the fourth Tuesdays in the months of July and August, unless otherwise provided by vote of a majority of members of the Commission;
3. Regular meetings may be canceled by the Chair when it is apparent, from already excused absences, that a quorum will not be present, or when the schedule otherwise permits.

**Section 4.02. Special Meetings.** The Chair may call special meetings at any time, ~~and shall call a special meeting upon the request of any three members.~~ The Chair shall also call a special meeting at the request of a Commission member made during a regular or special Commission meeting and with the vote of a majority of the members present. The City Manager, or Planning Director, may also request that the Chair call a special meeting. All special meetings are subject to provisions of law concerning notice of public hearing.

**Section 4.03. Organizational Meeting.** The first regular meeting in January of each year shall be the annual organizational meeting.

**Section 4.04. Notice of Meetings.** The Secretary to the Commission shall provide public notice of the place, date and time of all meetings. For

**ADDITIONS IN TEXT INDICATED BY UNDERLINE; DELETIONS BY STRIKEOUTS**

special meetings, the Chair shall designate the purpose for such meeting, which shall be included in the notice for the meeting.

**Section 4.05. Quorum.** A majority of the members of the Commission shall constitute a quorum for the transaction of business, except that, when a quorum is not present for a meeting, the Chair may continue the meeting to a date uncertain.

**Section 4.06. Absence of Officers.** In the absence of the Chair and Vice-Chair, the members present shall, by majority vote, elect one of themselves to conduct the meeting.

**Section 4.07. Continuances.** Meetings may be continued if all scheduled business cannot reasonably be disposed of. If any meeting is continued to a date and time uncertain, no further public notice of the meeting need be given. However, absent members of the Commission will be notified of the continuance.

## ARTICLE V

### Agenda and Order of Business

**Section 5.01. Agenda.** Draft and final ~~An~~ Agendas for each meeting will be prepared by the Secretary and provided to each Commission member as follows. Prior to the date of the meeting.

- A. A draft agenda shall be forwarded to each Commission member no later than seven (7) days prior to the scheduled Planning Commission meeting; and**

**ADDITIONS IN TEXT INDICATED BY UNDERLINE; DELETIONS BY STRIKEOUTS**

**B. A final agenda shall be forwarded to each Commission member on the Friday preceding the scheduled Planning Commission meeting.**

**No later than 5:00 P.M. on the Wednesday preceding the scheduled Planning Commission meeting, Commission members may forward to the Secretary discussion items, not associated with agenda items appearing on the draft Commission agenda, for consideration by the Commission under Other business. No discussion item may appear on the Commission's agenda if City regulations and state statutes or laws require public notice to be mailed and/or published prior to the scheduled Commission meeting.**

**No action may be taken on any item not on the agenda for a regular meeting unless such item is added to the agenda by the vote of a majority of the members present at the meeting. This is also subject to provisions of law concerning notice of public hearings.**

**Section 5.02. Order of Business.**

**A. At all regular meetings, business shall be conducted in accordance with an agenda which shall provide for the following:**

**Approval of minutes;**

**Planning Commission Agenda Items;**

**Public Comments (on items not on agenda);**

**ADDITIONS IN TEXT INDICATED BY UNDERLINE; DELETIONS BY STRIKEOUTS**

**Consideration and adoption of Resolutions on closed items;**  
**Consideration and adoption of Resolutions on open items;**  
**Summary Dispositions;**  
**Conduct of hearings, including new or continued cases;**  
**Report from Director of Planning or staff;**  
**Report from Commission members;**  
**Report from Commission Chair;**  
**Open discussion among Commissioners regarding Commission functions and goals and the methods and procedures for achieving them.**  
**Other business;**  
**Adjournment.**

**B. The Chair, unless overruled by a majority of the Commission members then present, may amend the order of business as necessary for the convenience of the members, staff or public. However, public hearings shall not commence prior to the advertised time.**

**C. The agenda will provide for the conduct of hearings on quasi-judicial matters and the consideration of legislative matters to be conducted at alternate meetings, except that the matters may be combined:**

- 1. To meet a legal deadline for determining a matter;**
- 2. To accommodate the July and August meeting schedule; or**
- 3. Where the agenda for the one type of matter is clearly capable of accommodating the other.**

## ARTICLE VI

### Conduct of Hearings

#### Section 6.01. Quasi-judicial hearings.

**A. All hearings of a quasi-judicial nature will be conducted in such a manner as to ensure that due process is afforded, that the correct law is applied and that the decision is based upon competent, substantial evidence.**

**B. Unless otherwise directed by the Chair, the order of presentation of an application or other case shall be as follows:**

**Applicant**

**City Staff**

**Members of the public.**

**C. All persons addressing the Commission shall be requested, upon being recognized by the Chair, to identify themselves by name and address for the record. Witnesses will be sworn.**

**D. Following the testimony of any witness, or before the Planning Commission takes action, the following shall be afforded an opportunity to examine or cross-examine the witness on all relevant issues:**

**Members of the Planning Commission**

**Applicant**

**City Staff representative**

**Members of Public.**

**The Chair may impose reasonable limitations on the offer of testimony or evidence and refuse to hear testimony or evidence that is not relevant to the issue before the Commission. The Chair may also impose reasonable limitations on the number of witnesses heard when such witnesses**

become repetitive or are introducing duplicate testimony or evidence. The Chair may also call witnesses and introduce evidence on behalf of the Commission. After the introduction of all relevant testimony and evidence, the applicant, the City Staff and any member of the public may be afforded the opportunity to summarize the application or case.

**E. Summary Disposition.**

- 1. Purpose. Summary Disposition is a procedure designed to provide due process in consideration of quasi-judicial matters, while expediting applications where there is little or no controversy.**
- 2. Availability. An application may be placed upon the Summary Disposition agenda where:**
  - a. The application has been determined to be complete by the City staff;**
  - b. The Applicant and City staff have indicated agreement as to all terms and conditions for approval of the application; and**
  - c. No person eligible to receive notice by mail (adjacent property owners notice) has objected in writing.**
- 3. Procedure. At the time on the agenda for Summary Dispositions the Chair shall inquire whether any person has opposition to any item. If there is no opposition, the item may be approved on the basis of the application and staff report, and if available, a proposed resolution, without the necessity of further testimony or evidence. If there is opposition at the hearing by a person whose**

**Interests are substantially affected, or if the Applicant, a City staff member or a Commissioner desires to pull the application from the Summary Disposition agenda, it shall be removed from that agenda and shall be heard as a regular time on the date noticed. If the Commission determines to deny the application or change the terms of an application which has been placed upon the Summary Disposition agenda, it shall be removed from that agenda and shall be heard as a separate item. All items on the Summary Disposition agenda not pulled for hearing may be approved by a single vote.**

**Section 6.02. Legislative (Advisory) Hearings.**

**A. Legislative or Advisory Hearings shall be conducted in such a manner as to ensure a full public airing of the proposal, ordinance, resolution or other matter before the Planning Commission.**

**B. If the matter is a matter which has been scheduled as a public hearing, unless otherwise directed by the Chair, the order of presentation is as follows:**

**Applicant or Proponent**

**City Staff, if not Applicant or Proponent**

**Members of Public**

## **ARTICLE VII**

### **Action by the Commission**

**Section 7.01. Motion and vote. All action by the Commission shall be by motion and seconded, which shall be restated by or at the request of the Chair before a vote is taken. Voting may be by voice unless a polled vote is directed by the Chair, or requested by any member. Except as otherwise specified in these rules, action by the Commission may be taken by a simple majority of the members present when there is a quorum.**

**Section 7.02. Tie votes. Except on any matter in which the action of the Commission is purely advisory to the City Council, and except when otherwise specified by law or ordinance, a tie vote on any motion on an agenda item (when no other motion passes by a majority) shall act as an automatic continuance of the motion to the next scheduled regular meeting of the Commission, at the time of consideration of open items. Should the vote on the motion again be tied, the motion shall be considered:**

- to have passed if it is a motion to deny any development permit, variance, conditional use, requested interpretation, or other application, or;**
- to have failed if it is any other type of motion.**

**Section 7.03. Official Actions. Official actions, decisions and recommendations of the Commission shall be in writing and shall be adopted by resolution. Resolutions shall be in the format specified in Section III.A.2.g. of the Land Development Code, shall be filed in**

accordance with Section III.A.2.h. of the Land Development Code and shall be served upon Applicant in accordance with Section III.A.2.i. of the Land Development Code.

**Section 7.04. Continuances.** The public hearing on any matter before the Commission may be continued if requested by the applicant, if the application is incomplete, if the Commission requires further information or plans from the applicant, or if the Commission requires further guidance from the City staff or the City Council or from any expert or technical source. The hearing on any application may be continued upon the request of the City staff when the applicant presents to the Commission plans, data, calculations, or expert opinions not previously included with the application or made available to the City staff.

Continuances may be to a date certain or they may be indefinite. If a continuance is to a date certain, no new public notice shall be required; if indefinite, complete public notice to the applicant and others as required by law or ordinance shall be given before the matter is considered again.

If no final action is taken by the Commission on any application within one year from the date the application was first considered by public hearing, the application shall be heard at the next monthly meeting for which adequate notice may be given, and final action shall be taken at said hearing unless the application is withdrawn by the applicant.

**Section 7.05. Action by Resolution.** Action on closed quasi-judicial hearings will be taken at next regular meeting.

## ARTICLE VIII

### Committees

Section 8.01. Standing or ad hoc committees may be appointed by the Chair following approval of the purpose by the Commission. Standing committees shall be reappointed by the newly-elected Chair at the first monthly meeting following the organizational meeting each year.

## ARTICLE IX

### Amendments

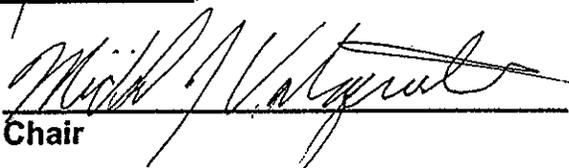
Section 9.01. These rules may be amended from time to time, by the vote of a majority of the members, after notice to all members of the proposed amendment and the meeting at which it will be action upon, and upon approval by the City Council.

## ARTICLE X

### Parliamentary Procedure

Section 10.01. The Chair shall determine all questions or procedure not explicitly and completely covered by these rules, unless overruled by a majority of the Commission members then present.

Approved and adopted by the Planning Commission of the City of Sanibel this 27<sup>th</sup> day of May, 2008.

  
Chair