



MEMORANDUM

DATE: June 20, 2005
TO: City Council Members
FROM: Julia Schwartz, Chairperson of the Vegetation Committee
SUBJECT: Environmental Handbook

9C on Agenda

Julia Schwartz

As Chairperson of the Vegetation Committee, I hereby request the Environmental Handbook be withdrawn from the June 21, 2005 City Council Agenda and rescheduled for the July 19, 2005 meeting.

Thank you.

CC: Judie Zimomra, City Manager
Pamela Smith, City Clerk
Vegetation Committee

JAZ/djr



MEMORANDUM

DATE: June 20, 2005

TO: Judie Zimomra, City Manager

FROM: Harold Law, Building Official *HL*

SUBJECT: Handyman

In June of 2004, City Council past a Contractors Ordinance which authorized the City to issue licenses to contractors. The new Ordinance did not include the category of Handyman because this title is not a licensable category recognized by the state. The Ordinance did make categories that a handyman could obtain if they so desired.

The problem we are having at this moment is that all contractors were notified of the new Ordinance and its effective dates. Handymen were not notified because they are not contractors under the new Ordinance or other governmental jurisdictions. All handymen have thought for years that they had a license like a contractor but in fact they only had an occupational license. In retrospect, Handymen should have also received a earlier notice and better explanation of the new code.

Ordinance 05-010 currently before City Council will eliminate the category of handyman from the Occupational Ordinance. When this happens the people that already have a handyman occupational license will be able to continue the use of their license until September 30, 2005 when the licenses will expire. If adopted, October 1, 2005 there will no longer be an active Handyman Occupational License category.

- What can a handyman do to continue to work on Sanibel?
 - A person with a current Occupational License for Handyman can continue to operate under this license until October 1, 2005.
- If a person is currently a "Handyman" what do they apply for before October 1st?
 - There are three choices they can make:
 1. Become a Residential, Building or General Contractor under (Classification I Contractor.)
 2. Become a Building Maintenance Contractor (Classification II Contractor.)
 3. Become a painting, tile, floor covering, trim carpentry, cabinet

installer, or plaster and stucco, etc. of their choice (Classification III.)

What are the requirements/qualifications for a person who currently holds an occupational license of "Handyman" to receive a contractor's license?

- Class I and II contractors are required to be tested technically and attend a class or be tested on Business and Florida Laws.
- Class III contractors are required to submit three letters of recommendation and financial statements.

If adopted, the attached will go out to all persons who currently hold a Handyman Occupational License informing them of the new Ordinance.

RHL/djr

xc: Ken Cuyler, City Attorney
Renee Lynch, Finance Director

June 20, 2005

To: All "Handymen" on Sanibel,

The Ordinance 05-010 did eliminate the category of Handyman from the Occupational Ordinance. The Handymen that already have a Handyman Occupational License will be able to continue the use of their license until September 30, 2005 when the licenses will expire. October 1, 2005 there will no longer be an active Handyman Occupational License category.

In June of 2004, City Council past a Contractors Ordinance which authorized the City to issue licenses to contractors. The new Ordinance did not include the category of Handyman because this title is not a licensable category recognized by the state. The Ordinance did make categories that a handyman could obtain if they so desired.

Here are many categories of contractors you may apply for depending on what you are experienced in or wish to provide to the public.

1. Class I General, Building, or Roofing Contractor.
2. Class II Building Maintenance, Finish Carpentry and or Drywall Contractor.
3. Class III Floor Covering, Tile, Drywall Residential, Plaster & Stucco, Painting, Trim Carpentry, Cabinet Installer.

We are enclosing information for you to start the process. You will need to take a technical test for the Class I and II categories. Before you can contract directly with the public, you are required to take the Business & Law test or class as well. Class III category requires three letters of recommendation along with financial statements.

The Building is always willing to help you as much as we possibly can.

Call us at 472-4555 if you need more information.

Sincerely,

R. Harold Law, Jr. C.B.O.
Building Official

Zoning in Progress for Elevated Swimming Pools

Supplemental Information

The following documents are provided as part of this item regarding the issue of above-ground (elevated) pools:

- A. June 9, 2005 Planning Department Staff Report provided to Planning Commission for its June 14, 2005 meeting (Attachment "A")
- B. Draft Ordinance provided with Staff Report for the Planning Commission's June 14, 2005 hearing (Attachment "B")
- C. Draft Council Resolution which would further declare and evidence "zoning in progress" and prohibit the issuance of permits to construct above-ground pools pending final consideration by Council of the "in progress" Ordinance. (Attachment "C")

Date: June 9, 2005

Consideration of an Ordinance amending the Sanibel Code, Part II, Subpart B. **Land Development Code**, Chapter 126. Zoning, by amending Article XIV Supplementary District Regulations, Division 2. Accessory structures, Section 126-852 Requirements, to establish a height limit for accessory swimming pools; Providing for codification; Providing for conflict and severance; and Providing an effective date, as submitted by the City of Sanibel. **Application no. 05-2767LDC.**

ISSUE

A swimming pool basin and deck, when significantly elevated above the ground, can inappropriately contribute to the bulk and mass of the principal structure. Furthermore, a swimming pool basin and deck that is significantly elevated above the ground may not be in keeping with the rural character of the community prescribed in the Vision Statement of the *Sanibel Plan*.

Alternatives to address this concern include:

requiring that swimming pool decks be at-grade, or

limiting the height of the pool deck above predevelopment grade

Is it appropriate for this community to limit the height of swimming pools and pool deck areas?

BACKGROUND

Current land development regulations allow swimming pools to be elevated, partially or totally, above the ground. There are some elevated swimming pools in the City. Permit data is not sorted by the elevation of pool decks; however, the Planning Department is confident that the general estimates for the number of above ground pools provided in this report are suitable for generally describing existing conditions of the built environment, but not for other purposes.

In flood zones (A-zones) of the Flood Insurance Rate Map, where the base flood elevation is less than 10' NGVD, single family dwellings are sometimes built to appear as at-grade or near grade dwellings, but these homes are, "in fact", typically elevated above predevelopment grade. Frequently, the swimming pool for this type unit is also elevated, up to the height of the first habitable floor of the dwelling. The majority of existing elevated swimming pools are in this category.

In flood zones (A-Zones) where the base flood elevation is 10' NGVD or higher, dwelling units are required, or choose, to be elevated higher above the predevelopment grade. In

these situations, building access area, garage area and storage areas below the first habitable floor are typically provided. For this type of dwelling, the elevated pool deck area is often 8' above predevelopment grade. There are some existing swimming pools in this category, but less than 50.

Recently, there have been elevated swimming pools built in the V-Zone. In V-Zones, where the lowest horizontal structural member is required to be elevated above the base flood elevation, elevated swimming pools are built to breakaway in a storm surge. For these units, the elevated pool deck area is often higher than 8' above predevelopment grade.

On May 3, 2005, the City Council directed staff to prepare regulations that require swimming pools to be at-grade or that establish a height limit for swimming pools and pool deck areas.

There are at least 2 elevated pools currently under construction. Development permits have been issued to construct at least 2 more elevated pools, but building permits have not been issued as of June 8th. One development permit application for an elevated accessory swimming pool is under review in the Planning Department. All 5 of these pools are to be located in the V-Zone: 4 on the Gulf and one on the Bay.

PROPOSAL

In preparing the proposed ordinance amending the Land Development Code, the Planning Department considered both of the following alternatives.

Alternative for requiring that swimming pool decks be at-grade

All accessory building and structures shall comply with the following requirements:

- (1) Height. Accessory structures shall comply with the height limitations for principal structures, but in no event shall an accessory structure exceed the height of a principal structure located on the same lot.

For swimming pools, whether the swimming pool is attached to the principal structure as part of the principal structure or is a free-standing accessory structure, the height of the swimming pool deck shall be at-grade.

Alternative for limiting the height of the pool deck to 3'-6" above predevelopment grade

All accessory building and structures shall comply with the following requirements:

- (1) Height. Accessory structures shall comply with the height limitations for principal structures, but in no event shall an accessory structure exceed the height of a principal structure located on the same lot.

For swimming pools, whether the swimming pool is attached to the principal structure as part of the principal structure or is a free-standing accessory structure, the height of the swimming pool deck shall not be higher than 3'-6" above predevelopment grade.

The Planning Department supports the alternative that limits the height of the pool deck to 3'-6" above predevelopment grade; however, the Planning Department is open to suggestions and rationale for either reducing or increasing that height limit. The alternative that establishes a height limit of 3'-6" for swimming pools is incorporated in the draft ordinance prepared for this proposed amendment to the Land Development Code. A copy of that draft ordinance (draft 1, 5-3-5) is provided with the copy of the staff report presented to the Planning Commission.

ANALYSIS

The current practice for permitting at-grade pools does allow the pool deck to be 1'-6" above the predevelopment grade to accommodate for the site grading of varying ground elevations and for the drainage of the pool deck area to the permeable areas of the parcel.

Accessory swimming pools that are elevated to the height of the first habitable floor of the dwelling are certainly not typical, but their numbers have been increasing. The majority of existing elevated swimming pools have been constructed at dwellings that are not elevated a full 8' above the ground. However, when an accessory swimming pool to a single family dwelling is elevated above ground, a significant challenge is presented for maintaining the rural character of the community prescribed in the Vision Statement of the *Sanibel Plan*. The higher the swimming pool is elevated above the predevelopment grade, the greater the challenge. Furthermore, a swimming pool basin and deck, when significantly elevated above the ground, inappropriately contribute to the bulk and mass of the principal structure.

In the V-Zones, where the base flood elevation is typically the highest and where no horizontal structural member is permitted below the base flood elevation, elevated pools must be at or above the base flood elevation. The basin of the elevated pool in the V-Zone must be "breakaway" and the pool must be designed to collapse from the impact of a storm surge.

In the context of providing for the public health, safety and general welfare of the community, this issue is clearly under general welfare. It is an issue that relates to the character of the community generally and the bulk mass and size of single family dwellings specifically.

These elevated accessory structures unnecessarily contribute to the mass of the principal structure. The proposed limitation on the height of swimming pool decks provides a reasonable control on the mass of this accessory structure and contributes to the City's efforts to ensure compatibility for single family dwellings in established neighborhoods.

PROCEDURE

The Planning Commission may recommend to the City Council amendments to regulations of the Land Development Code, in accordance with the standards set forth in LDC Section 82-241.

(1) The Planning Commission shall make reference to the Sanibel Plan to determine if the proposed amendment to the land development regulations is consistent with the intent and purpose of the Sanibel Plan.

(2) The Planning Commission shall determine whether the proposed amendment:

- a. Will encourage the most appropriate use of land and City resources, consistent with the public interest;*
- b. Will prevent the overcrowding of land and avoid the undue concentration of population;*
- c. Will adversely affect the development of adequate and efficient provisions for transportation, water, sewage, schools, parks, recreation facilities, and the environmental, social and economic resources of the city;*
- d. Will adversely affect the character and stability of the present and future land use and development of the community;*
- e. Will adversely affect orderly growth and development;*
- f. Will preserve, promote, protect and improve the public health, safety and general welfare of the community; and*
- g. Is consistent with the City Charter.*

(3) If the Planning Commission determines that a proposed amendment is inconsistent with the Sanibel Plan or its intent and purpose, the Planning Commission may, nevertheless, recommend approval of the proposed amendment, along with a corresponding amendment to the Sanibel Plan, if the Planning Commission determines that the proposed amendment should be approved based upon a consideration of all of the factors specified in subsection (2) of this section.

RECOMMENDATION

The Planning Department **recommends approval** of the proposed ordinance amending LDC Section 126-852.

CITY OF SANIBEL

DRAFT ORDINANCE NO. 05-___

AN ORDINANCE AMENDING THE SANIBEL CODE, PART II, SUBPART B. LAND DEVELOPMENT CODE, CHAPTER 126. ZONING, BY AMENDING ARTICLE XIV SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 2. ACCESSORY STRUCTURES, SECTION 126-852 REQUIREMENTS, TO ESTABLISH A HEIGHT LIMIT FOR ACCESSORY SWIMMING POOLS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, current land development regulations allow swimming pools to be elevated, partially or totally, above the ground; and

WHEREAS, a swimming pool basin and deck that is significantly elevated above the ground is not in keeping with the rural character of the community prescribed in the Vision Statement of the *Sanibel Plan*; and

WHEREAS, a swimming pool basin and deck, when significantly elevated above the ground, inappropriately contribute to the mass of the principal structure; and

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

WHEREAS, such revisions have been referred to the Planning Commission for a recommendation as to the consistency of the Amendment with the *Sanibel Plan*; and

WHEREAS, the City Council deems it necessary to make such revisions to the Land Development Code, as contained in this ordinance; and

WHEREAS, all required public notices and public hearings for such amendment have been properly given and held.

NOW, THEREFORE, BE IT ORDAINED by the Council for the City of Sanibel, Lee County, Florida:

SECTION 1. The Code of Ordinances of the City of Sanibel, Chapter 126. Zoning, Article XIV Supplementary District Regulations, Division 2. Accessory Structures, Section 126-852 Requirements, is hereby amended, with underlining indicating additions and ~~striketrough~~ indicating deletions, as follows:

Section 126-852. Requirements.

All accessory building and structures shall comply with the following requirements:

- (1) Height. Accessory structures shall comply with the height limitations for principal structures, but in no event shall an accessory structure exceed the height of a principal structure located on the same lot.

For swimming pools, whether the swimming pool is attached to the principal structure as part of the principal structure or is a free-standing accessory structure, the height of the swimming pool deck shall not be higher than 3'-6" above predevelopment grade.

- (2) ...

SECTION 2. Codification.

This ordinance shall be an amendment to the Code of Ordinances of the City of Sanibel and Sections 126-1096, 126-634, and 78-1 of Sanibel Code of Ordinances are hereby amended.

SECTION 3. Conflict.

All ordinances and parts of ordinances in conflict herewith shall be and the same are hereby repealed. If any part of this ordinance conflicts with any other part, it shall be severed and the remainder shall have full force and effect and be liberally construed.

SECTION 4. Severance.

If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of application hereof.

SECTION 5. Effective date.

This ordinance shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the Council of the City of Sanibel,
Lee County, Florida, this _____ day of _____, 2005.

AUTHENTICATION: _____
Mayor City Clerk

APPROVED AS TO FORM: *Kenneth B. Lyle* 6/9/05
City Attorney Date

Publication and Hearing Dates:

Date of First Reading: _____
Ordinance Publication Date: _____
Date of Second Reading and Public Hearing: _____

Vote of Council Members:

Johnston _____
Denham _____
Brown _____
Jennings _____
Rothman _____

Date filed with the City Clerk: _____

!;kep: ldc amend height of pool decks

RESOLUTION NO. 05-106

A RESOLUTION ACKNOWLEDGING THAT THE PLANNING STAFF, AT THE DIRECTION OF CITY COUNCIL, HAS DEVELOPED PROPOSED LAND USE REGULATIONS RELATING TO THE PROHIBITION OF ABOVE-GROUND POOLS AND THAT SUCH PROPOSED ORDINANCE HAS BEEN SUBMITTED TO THE PLANNING COMMISSION FOR ITS CONSIDERATION AND RECOMMENDATION; DIRECTING THAT THE PLANNING COMMISSION PROVIDE RECOMMENDATIONS, AFTER ITS DUE CONSIDERATION, WITH REGARD TO SUCH PROPOSED LAND USE AND DEVELOPMENT REGULATIONS; DECLARING THAT THE DEVELOPMENT OF SUCH REGULATIONS AND THE ZONING PROCESS RELATED THERETO CONSTITUTES "ZONING IN PROGRESS"; DIRECTING THAT PERMITS FOR ABOVE-GROUND POOLS NOT BE ISSUED UNTIL THE "ZONING IN PROGRESS" HAS BEEN COMPLETED BY FINAL CONSIDERATION OF SUCH PROPOSED LAND USE AND DEVELOPMENT REGULATIONS BY CITY COUNCIL; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, City Council has directed that the Planning Staff develop proposed land use regulations addressing the regulation or prohibition of above-ground pools; and

WHEREAS, the Planning Staff has developed a proposed Ordinance addressing such above-ground pools; and

WHEREAS, the proposed Ordinance has been considered by the City of Sanibel Planning Commission as part of the land use regulation and zoning process; and

WHEREAS, although no final consideration and/or decision has been made, or can be made, by City Council except through the publicly advertised zoning consideration process; and

WHEREAS, the City Council finds that the issuance of any permits for the construction of above-ground pools during this "zoning in progress" is detrimental to the best interests of the citizens of the City of Sanibel;

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

SECTION 1. The City Council hereby determines that it is appropriate and in the best interests of the citizens of Sanibel to study, consider and develop land use regulations to address and/or prohibit construction of above-ground pools within the City of Sanibel. Until such time as the City Council has an opportunity to consider such

recommendations and proposed land use regulations developed and proposed by the Planning Staff and submitted for consideration and recommendation by the Planning Commission and ultimately the City Council, the issuance of final permits for the construction of above-ground pools shall be prohibited.

SECTION 2. The City Council hereby declares that the process currently in effect with regard to the development and consideration of land use regulations relating to above-ground pools constitutes "zoning in progress."

SECTION 3. In the event that any person or other entity is denied a Development Permit, Building Permit or other City approval as a direct result of the prohibition set forth above, such person or other entity may appeal such denial to City Council. The City Council may authorize such approval as it deems necessary or appropriate upon the finding that such approval is not contrary to the long term goals of this Resolution and is not disadvantageous to the health, safety and welfare of the general public.

SECTION 4. It is City Council's position that this "zoning in progress" constitutes a priority and the timely completion of these matters shall be considered a priority by Staff and the Planning Commission.

SECTION 5. Effective date.

This Resolution shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Florida this 21st day of June, 2005.

AUTHENTICATION:

Carla B. Johnston, Mayor

Pamela Smith, City Clerk

APPROVED AS TO FORM: Kenneth B. Cuyler 6/20/05
Kenneth B. Cuyler, City Attorney Date

Vote of Council Members:

- Johnston _____
- Denham _____
- Brown _____
- Jennings _____
- Rothman _____

Date filed with City Clerk: _____