



# City of Sanibel

Planning Department

## MEMORANDUM

DATE: April 25, 2013  
TO: Judie Zimomra, City Manager  
FROM: James C. Jordan, Planning Director  
SUBJECT: City Council Consideration of Fee Waiver Requests

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### BACKGROUND

The following fee waiver requests were recently submitted for City Council consideration.

- (1) Jeff Weigel, representing the Sanibel Deli, located at 2330 Palm Ridge Rd, is seeking a waiver of the fees required to apply for a variance (to parking) and a conditional use permit (for fast-food restaurant seating). A variance and conditional use permit would be required for Sanibel Deli to expand its current carry-out business into an adjoining unit and provide indoor dining seats for their customers. The Planning Department has estimated the fees for the variance and conditional permit at \$8,409.00. This amount does not include implementing development permit or building permit.

The applicant states that the basis for the fee waiver is due to financial hardship. See **Attachment A**, as provided by the applicant, for additional details.

- (2) MG Whitiker representing the Fresh Taqueria, located at 2411 Periwinkle Way. Ms. Whitiker seeks a fee waiver to apply for variance(s) that would allow two additional

signs above the one permitted in-ground sign for the business location. One of the two additional signs would identify the off-site parking lot for the Fresh Taqueria and the other would serve as a directional sign to the off-site parking lot. The Planning Department has estimated the fees for these variances at \$2,000.00 for one variance to one regulation, plus \$560.00 for each additional variance request to each separate regulation.

The applicant seeks City Council approval for a fee waiver. See **Attachment B**, as provided by the applicant, for additional details.

### **OPTIONS**

Pursuant to Land Development Code, Section 90-5, the City Council, by resolution, may waive payment of all or part of a fee for any of following reasons:

- (1) Demonstrated hardship of a kind and nature exceeding the general inconvenience of paying fees.
- (2) The resubmission of an application is found to be necessary, and it would be inequitable to require payment of a full application fee.
- (3) All or a substantial portion of the benefit resulting from the application will be a public benefit.

City Council can take either of the following actions on the two requests:

- Reduce the amount of fees by a determined percentage.
- Waive the fees entirely.
- Deny the requests altogether.

**CITY OF SANIBEL**

**RESOLUTION NO. 13-049**

**A RESOLUTION GRANTING A PARTIAL WAIVER OF THE CONDITIONAL USE APPLICATION FEE AND VARIANCE FEE FOR SANIBEL DELI AND COFFEE FACTORY, LLC LOCATED AT 2330 PALM RIDGE ROAD; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Jeff Weigel, owner of the Sanibel Deli and Coffee Factory, LLC applied for consideration of a conditional use permit for fast food restaurant seating and a variance for parking at the existing Sanibel Deli and Coffee Factory, LLC located at 2330 Palm Ridge Road; and

**WHEREAS**, Jeff Weigel has requested that the application fees for the conditional use permit and variance be reduced and such written request has been considered by City Council; and

**WHEREAS**, pursuant to Section 90-5(f)(1)-(3) of the Sanibel Code, the City Council, by Resolution, may waive payment of all or part of a fee for any of the reasons set forth therein; and

**WHEREAS**, the City Council finds it appropriate to waive a portion of the application fee for the conditional use permit and variance filed by Jeff Weigel;

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

**SECTION 1.** Pursuant to Sanibel Code Section 90-5(f)(1)and(3), the City Council finds that the criteria for the granting of a partial reduction of the conditional use permit application fee and variance fee have been met and the conditional use permit application fee and variance fee are hereby reduced to a total amount of \$3,000 for the applicant relating to Sanibel Deli and Coffee Factory, LLC located at 2330 Palm Ridge Road.

**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 4th day of June, 2013.

**AUTHENTICATION:**

\_\_\_\_\_  
Kevin Ruane, Mayor

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Pamela Smith, City Clerk

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

5/22/13  
Date

Vote of Council Members:

Ruane           \_\_\_  
Congress       \_\_\_  
Denham        \_\_\_  
Harrity         \_\_\_  
Jennings       \_\_\_

Date filed with City Clerk: \_\_\_\_\_

## ATTACHMENT A

April 15, 2013

To: Judie Zimomra - City Manager

From: Jeff Weigel / Sanibel Deli

Re: Request for Fee Waiver

The Sanibel Deli has the opportunity to expand its operating space into the unit next door currently occupied by the pain and massage therapy clinic. Our plan/wish is to add roughly 16-18 seats for the use of deli patrons to eat their food. The deli will still operate as a takeout counter service style establishment but will now offer patrons a place to sit. As per Land Development Code 90-5 we are requesting from City Council that the fees involved in applying for the conditional use permit development permit and variance required to do this be waived. The basis for this waiver request is based in the area of hardship as the fees far exceed what is financially feasible for the Sanibel Deli to afford.

The Sanibel Deli has been in business for four years. During that time the deli has worked hard to maintain a foothold in the Sanibel community as a respectable business. This has been achieved by spending much time and effort working in the community and giving back to the community whenever possible. However, the business is still in its infancy and is operating in an environment (Palm Ridge Plaza) that is not optimal for business success. The estimated fee for the variance and conditional use permit as outlined by Director Jordan is \$8,409.00. We are asking that this fee be waived as it is impossible for us to afford that. This will go before the Planning Commission and should they vote no on this the fee is also non refundable. That is a huge gamble. I cannot afford this. I do think that this issue being brought to the Planning Commission is beneficial for all those involved as it could be an important learning experience for all involved. I appreciate your consideration and hope that we can work together to help prevent yet another empty space in this plaza. Thank you.