



# City of Sanibel

Planning Department

## MEMORANDUM

DATE: July 29, 2013

TO: Judy Zimomra, City Manger

FROM: James Jordan, Director of Planning

**SUBJECT: The Continued Nonconforming Commercial Use of an Existing Structure Located at 1177 Causeway Boulevards**

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At their July 2, 2013 meeting City Council directed Staff to provide some additional information that addressed whether the nonconforming office use of the subject property should be zoned commercial or not.

In general, nonconformities are categorized either as a use or structure. Nonconforming uses are defined by the Land Development Code as lawfully existing uses that are located within a zone or district restricted against such uses. Sanibel has seven such nonconforming commercial uses of properties, built prior to the City's incorporation, that are not located within the Commercial District. The locations of these properties are:

- 6460 Sanibel-Captiva Road (The Mad Hatter)
- 2761 West Gulf Drive (The Sandbar)
- 2807 West Gulf Drive (John Gee Realty)
- 1177 Causeway Boulevard (Formerly VIP Realty)
- 2133 Periwinkle Way (Realty Title Services and Jerrold Stern, Attorney)
- 2000 Periwinkle Way (VIP Realty)
- 959 Periwinkle Way (Royal Shell)

In July of 1982 Specific Amendment No 82-26 permitted the lawfully existing commercial use of 1117 Causeway Boulevard to expand but to only continue as an office use until July 06, 2007. Upon reaching this date the commercial use of the property was to revert to a

permitted use. The property is located in Altered Land Ecological Zone where the primary permitted use is residential.

The purpose of City Council Resolution No. 13-002 was to repeal and replace Specific Amendment Ordinance No. 82-26 by allowing the nonconforming commercial use of the subject property to continue as an office and with the same build-back rights that apply to other existing nonconforming uses and structures located throughout the City. Furthermore, Resolution No. 13-002 is consistent with the intent of Ordinance No 05-017, adopted in January 2006, whereby the Land Development Code was amended to allow for the building back of nonconforming structures or structure devoted to a nonconforming use after such building or structure is substantially damaged by a natural disaster. It is presently the intent of the Land Development Code to allow these nonconformities to continue until such time that they are eventually removed, however except as to most nonconforming uses, not require them to be removed as a result.

To rezone the subject property, located at 1177 Causeway Boulevard, commercial will require the approval of an amendment to the Sanibel Plan's Commercial District Maps. The nonconforming office use of this property has now been allowed to continue, however, to rezone this property commercial would also allow for other commercial uses including, but not limited to a convenience store, restaurant, tee shirt shop, or souvenir store. With the location of this property being at the City's gateway, the possibility of a more intense commercial use i.e. a food or retail use, may not best represent the character of Sanibel.

Finally, to rezone this property commercial may also be precedent setting as there are other lawfully existing nonconforming uses and structures, associated with existing nonconforming residential and resort properties, which could lead to similar rezoning requests in the future.