



CITY OF SANIBEL
 Planning Department
 APPLICATION FOR DEVELOPMENT PERMIT
Conditional Use
 (WITH APPLICATION INFORMATION)

STAFF USE ONLY

APPLICATION No: _____ FILING DATE: _____ ACCEPTED BY: _____ FEE: _____

PART I. PARCEL IDENTIFICATION

TAX STRAP NUMBER: _____ - 46 - _____ - T _____ - _____ . _____

STREET ADDRESS OF PROPERTY: _____

PART II. OWNER & APPLICANT INFORMATION

NAME OF OWNER: _____

Owner's Mailing Address: _____

Owner's Phone No: _____ Business _____ Fax _____

Owner's **Email** Address: _____

NAME OF APPLICANT: _____

Applicant's Address: _____

Applicant's Phone No: _____ Business _____ Fax _____

Applicant's **Email** Address: _____

Applicant's Interest in Property: _____

PART III. PROVIDE A BRIEF DESCRIPTION OF THE PROPOSED DEVELOPMENT:

IDENTIFY THE LAND DEVELOPMENT CODE SECTION(S) FOR WHICH THIS CONDITIONAL USE IS REQUESTED:

PART IV. ATTACHMENTS CHECKLIST

The information and attachments requested as part of this application are the minimum necessary to determine compliance with the requirements of The Sanibel Plan and the Land Development Code (LDC). The City may require additional information, or waive certain requirements, at any time during the application process, depending upon the nature of the conditional use request. (Ref. Land Development Code Section 82-204). For a complete explanation of each item, refer to the Planning Department handout entitled "Instructions for Permits and Other Applications of the Sanibel Land Development Code".

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- _____ DESCRIPTION OF HOW THIS APPLICATION MEETS THE CONDITIONAL USE GENERAL REQUIREMENTS (See Land Development Code Section 126-82)
- _____ DESCRIPTION OF HOW THIS APPLICATION MEETS THE SPECIFIC REQUIREMENTS FOR THIS TYPE OF CONDITIONAL USE (See Land Development Code Chapter 126, Article IV)
- _____ DEED / LEE COUNTY OWNER OF RECORD
- _____ OWNER'S AUTHORIZATION (Certified Form available in City Planning Department)
- _____ OTHER AGENCY PERMITS (Certified Statement RE: Required Permits and Copy of Applications/Permits)
- _____ VERIFICATION OF PERMITTED RESIDENTIAL DENSITY (See LDC Sections 86-91 and 86-92)
- _____ SURVEY (1"=20', With Raised Seal and Signature of Florida Registered Surveyor Or Engineer)
- _____ LOCATION MAP
- _____ SITE DEVELOPMENT PLAN (1" = 20')
- _____ DRAINAGE PLAN OR VERIFICATION OF EXISTING DRAINAGE IMPROVEMENTS
- _____ PLANS FOR STORMWATER & DEWATERING EROSION CONTROL (Forms available in Planning Dept.)
- _____ EXTERIOR LIGHTING PLAN
- _____ VEGETATION PLAN
- _____ WILDLIFE HABITAT IDENTIFICATION AND PLAN FOR PRESERVATION
- _____ VERIFY GOPHER TORTOISES ARE PROTECTED ON SITE OR HAVE BEEN REMOVED (If Applicable)
- _____ IWA WATER AVAILABILITY LETTER
- _____ WASTEWATER TREATMENT STATEMENT (Sewer Availability Letter or Wastewater Permit for Septic System)
- _____ BUILDING PERMIT APPLICATION
- _____ FLOOR PLANS (1/4" = 1')
- _____ TYPICAL WALL SECTION (1/4" = 1')
- _____ BUILDING ELEVATIONS (Front, Back and Side-Showing Height and Setback Compliance)
- _____ FLOODPROOFING CERTIFICATION (For Coastal High Hazard Areas Only)
- _____ OTHER INFORMATION REQUIRED FOR COMPLIANCE WITH THE LAND DEVELOPMENT CODE:

PART V. PUBLIC HEARING NOTIFICATION REQUIREMENT

_____ Provide name and address labels for all property owners within a radius of 300 feet of the extreme limits of the parcel proposed for development (to be obtained from Lee County Geographic Information System Department). Refer to the "Adjacent Property Owners" section of the "Instructions for Permits and Other Applications of the Sanibel Land Development Code" for complete details on obtaining this information.

***** **CERTIFICATION** *****

I hereby certify that the information contained in this application and the attachments hereto are true and correct to the best of my knowledge and belief. Furthermore, I acknowledge that the City has the right to inspect the subject property in conjunction with this development permit application. (Please advise the City of any restrictions or limitations on the inspections.)

SIGNATURE OF OWNER / OWNER'S AUTHORIZED REPRESENTATIVE

DATE

NOTE TO OWNER/APPLICANT: The proposed development may be subject to private deed restrictions or covenants. It is the applicant's responsibility to verify with the appropriate property owners association whether the proposed development complies with the applicable deed restrictions or covenants. **The City does not enforce deed restrictions or act as an arbitrator between the applicant and the association.**

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The Sanibel Code – Zoning

Sec. 126-31. - Generally

The planning commission shall not authorize the issuance of a permit for a conditional use except in compliance with the specific conditions in this article.

(Ord. No. 85-26, § 1(I.1.3), 11-27-1985; Ord. No. 89-23, § 50, 8-15-1989)

Sec. 126-32. - Public utility uses

Public utility uses (uninhabited structures only, with no regular on-site human activity) shall be permitted as a conditional use subject to the following conditions:

- (1) There shall be no minimum lot area required. The lot area shall be sufficient to provide for the use or structure and to comply with the other required conditions as determined by the planning commission.
- (2) The minimum setback requirements shall be those applicable to the zone in which the use is located.
- (3) The maximum height of structures shall be limited to the maximum height of structures permitted in the zone in which the use is located except that microwave relay, cable transmission and radio towers which are accessory uses with a primary public utility use, located on the same lot, shall be exempted from the height regulations, as long as such towers are located as close to the center of the lot as topography will permit or as required for necessary regulatory permits and that all guys and supporting structures are located within the boundaries of such lot.
- (4) Earth stations must comply with the limitations and conditions of article XVII of this chapter.
- (5) There shall be a landscaped buffer strip between the subject use and adjoining residential districts; such buffer strip shall provide adequate screening of the proposed facility from the residentially zoned property. Such screening shall be in accordance with the standards set forth in section 126-1021 et seq. for buffering and screening of commercial properties and as approved by the planning commission.
- (6) The lot shall be otherwise appropriately landscaped.

(Ord. No. 85-26, § 1(I.1.3(a)), 11-27-1985; Ord. No. 89-23, § 50, 8-15-1989)

Cross reference — Existing regulations concerning telecommunications devices, § 126-1534.

Sec. 126-33. - Institutional uses

- (a) Institutional uses shall be permitted as a conditional use subject to the following conditions:
 - (1) There shall be a landscaped buffer strip between the subject use and adjoining residential zones. Such buffer strip shall provide adequate screening of the proposed facility from residentially zoned property. Such screening shall be appropriately planted as approved by the planning commission.
 - (2) The lot shall be otherwise appropriately landscaped.
 - (3) No institutional use shall be permitted on the parcel except those principal and accessory uses specifically identified in the conditional use approval.

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- (4) Regardless of the regulations and required conditions set forth for the applicable district, the planning commission may authorize an institutional use to be developed with up to 45 percent coverage with impermeable surfaces, and with up to 50 percent vegetation clearance and developed area, for lands located in the altered land, mid-island ridge, or upland wetland zones, whenever:
- a. The institutional use requires more than 50 parking spaces;
 - b. The planning commission finds that the majority of the required parking spaces will be used only infrequently; and
 - c. The lot or parcel on which the institutional use is to be developed fronts on an arterial or collector road.

- (b) For such institutional uses the permitted clearance, coverage, or developed area, if greater than that specified for the applicable district, shall be set forth in the resolution approving the conditional use.

(Ord. No. 85-26, § 1(l.1.3(b)), 11-27-1985; Ord. No. 86-11, § 1, 4-15-1986; Ord. No. 86-41, § 1, 10-7-1986; Ord. No. 87-03, § 1, 2-17-1987; Ord. No. 89-23, § 50, 8-15-1989)

Sec. 126-34. - Agriculture and aquaculture

Use of land for agriculture or aquaculture shall be permitted as a conditional use subject to the following conditions:

- (1) The minimum lot area of the lot shall be sufficient to provide for the necessary use or structure and to comply with the required conditions set forth in this section and as determined by the planning commission. A commercial nursery must have a minimum lot area of two acres.
- (2) Yard setbacks as required for the zone in which the use is located shall be met.
- (3) Hives for the keeping of bees and any structure used for retail sales and storage shall be placed at a minimum distance of 50 feet from the side and rear lines of the parcel.
- (4) In connection with the permitted operations, no mechanical equipment may be used of a nature or sufficient size which would result in the production of noise outside the boundaries of the parcel that would constitute a nuisance to any adjoining residential areas.
- (5) No outdoor storage of any goods offered for sale on the premises, except for agricultural or aquacultural products, shall be permitted. Buildings for retail sales and storage shall be limited to a total of 1,000 square feet of floor area. A commercial nursery shall have access from a minor collector or arterial street.
- (6) The maximum permitted developed area and vegetation clearance for a commercial nursery shall be the same as for permitted uses in the zoning district in which such use is located, except that additional developed area and clearance (up to a total of 50 percent) shall be permitted if such additional area is used for the cultivation of native plants. For all other agriculture and aquaculture uses, the permitted developed area and vegetation clearance shall be the minimum necessary to reasonably accommodate the proposed use, as determined by the planning commission, but not more than 50 percent except as provided in subsection (7) of this section.

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- (7) On lands used for aquaculture, any new bodies of water created to facilitate such use shall count toward the maximum permitted developed area. Existing bodies of water used for aquaculture shall count toward the maximum permitted developed area for the parcel, but if such existing bodies of water exceed the maximum permitted developed area, additional developed area shall be allowed to the extent of up to 1,000 square feet of floor area for retail sales and storage and the minimum driveways and parking areas necessary to serve such use.
- (8) In considering the permitting of an agricultural or aquacultural use on a particular parcel, the planning commission shall evaluate the possibilities of any negative impact on residential areas adjacent to the parcel and on residential areas abutting the access to such parcel that might be generated by the level of traffic created by the proposed use or the nature and extent of nonpassenger vehicle traffic generated by the proposed use. Upon findings of fact that such traffic generation would cause or create an undue burden on such adjoining residential parcels inconsistent with the neighborhood development, this shall be a sufficient basis to deny the conditional use permit sought.

[Ord. No. 85-26, § 1(I.1.3(c)), 11-27-1985; Ord. No. 89-23, § 50, 8-15-1989]

Sec. 126-35. - Recreation facilities

Recreation facilities are limited to country clubs, private swim clubs, racquetball courts, tennis courts or golf courses, or any combination thereof. Beach clubs are not permitted as a principal land use. Beach clubs are not permitted as an accessory or associated use with residential developments, including hotels, motels, inns, timeshare developments and other resort housing developments. However, lawfully existing and specifically approved common areas of residential developments, which extend into the Gulf Beach Zone, that serve only the residents of that development are not beach clubs. Lawfully existing private beach access easements that serve the residents of properties with existing rights to use that easement are not beach clubs.

Recreation facilities shall be permitted as a conditional use, subject to the following conditions:

- (1) No minimum lot area is required. The lot area shall be sufficient to provide for the necessary use or structure and to comply with the required conditions of this Land Development Code set forth and as determined by the planning commission.
- (2) The setback requirements set forth for the zone in which the parcel is located shall apply except as specifically modified. No building or swimming pool shall be located within 50 feet of any outside parcel line.
- (3) No public address system shall be permitted which is audible at any outside parcel line.
- (4) All outdoor lighting shall comply with requirements for outdoor lighting, including requirements for beach front lighting.
- (5) Access to the parcel shall be located so as to minimize the effect of vehicular traffic, during ingress and egress to the facility, so as to minimize the impact on adjoining residential uses and traffic patterns on adjacent streets.
- (6) Where practical and necessary, the planning commission may require vegetative buffering along outside parcel boundaries adjoining residential uses.

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- (7) Swimming pools specifically. Swimming pools shall be located on the site so that the normal noise generated in their utilization shall have the least impact on adjoining property owners, and shall be effectively buffered by vegetation, so as to limit the transmission of such noise generated to the maximum practical extent.
- (8) Golf courses specifically.
- a. Up to 50 percent of the parcel may be cleared of vegetation and used as developed area. The developed area shall include all areas used for structures, putting greens, driving ranges, tees, greens, cart paths, walkways, other areas designed for use for specific activities, sandtraps, new bodies of water, areas of fairways and rough which are actually cleared of vegetation and replanted with grasses, and all similar use areas.
- b. In the case of golf courses, care and consideration shall be given to the placement of tees and fairways in order to reduce to a minimum the likelihood of golf balls leaving the subject parcel and posing a danger or creating a nuisance to adjoining land owners, as well as pedestrian and motor vehicle traffic adjacent to the parcel.
- [(9)Reserved.]
- (10) Tennis courts specifically.
- a. Fencing, in connection with the placing of tennis courts, shall be located at least ten feet from any outside parcel line; and
- b. Fences shall be so placed that they do not restrict or unduly impair the site distance of pedestrian and motor traffic adjacent to the parcel or unreasonably or unduly restrict the view of any adjoining owner with respect to the enjoyment of his property.

Sec. 126-81. - Purpose and scope

Recognizing that there are certain classes of uses which are necessary or desirable for citizens and to the growth and development of the city, and further recognizing that these particular uses must be implemented with particular care in order to lessen otherwise adverse impact on the city and neighboring permitted uses, this group of uses is permitted to co-exist with primary intended uses as set forth in the various zones, but only under such circumstances as it can be demonstrated that the administrative standards in this article are met.

(Ord. No. 85-26, § 1(i.1.1), 11-27-1985)

Sec. 126-82. - General requirements

The planning commission shall authorize conditional uses in the zones in which they are permitted, after public hearing, only upon the following requirements being met:

- (1) The proposed development shall not adversely affect compatibility with other uses, either on, adjacent to, or nearby the parcel; shall not adversely affect the traffic flow to a significantly greater extent than permitted uses; shall not adversely affect the health, safety and welfare of the community or its goals and objectives; and shall be inherently beneficial to the community or reasonably necessary to its convenience.

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- (2) A request for conditional use approval shall be accompanied by a site development plan prepared in accordance with the requirements of subsection 82-382(13).
- (3) In reviewing requests for conditional uses, the planning commission may impose, as necessary, conditions to protect adjacent or nearby parcels and in furtherance of the public interests, with regard to location, design, intensity of use, architectural treatment, siting, landscaping, maintenance and operation of the uses.
- (4) The developer must demonstrate that the proposed use is coordinated, to the greatest extent possible, with adjoining developments. Where applicable, this coordination shall include examination of all opportunities to share or combine drives and entry points, parking areas, sewage treatment facilities, pedestrian walkways and other service facilities.
- (5) The planning commission shall consider the nature of the site, its size and its configuration to determine whether the parcel is adequate to:
 - a. Accommodate the placement and arrangement of structures so as to promote the best possible vehicular and pedestrian access and internal circulation;
 - b. Maximize energy efficiency and compatibility with adjoining uses on and off the site; and
 - c. Minimize the need for additional off-site transportation improvements.
- (6) In considering a proposed conditional use for approval, the planning commission shall evaluate the proposal in consideration of the following factors:
 - a. *Conformance with Sanibel Plan.* No conditional use may be approved unless it is in accord with the Sanibel Plan.
 - b. *Internal compatibility.* Any proposed conditional use must be compatible with other existing or proposed uses on the same site; that is, no use may have any undue adverse impact on any neighboring use. An evaluation of the internal compatibility of a conditional use should be based on the following factors:
 1. The streetscape;
 2. The existence or absence of, and the location of, open spaces, plazas, recreational areas and common areas;
 3. The use of existing and proposed landscaping;
 4. The treatment of pedestrian ways;
 5. Focal points and vistas;
 6. The use of the topography, physical environment and other natural features;
 7. Traffic and pedestrian circulation pattern;
 8. The use and variety of building setback lines, separations and buffering;
 9. The use and variety of building groupings;
 10. The use and variety of building sizes and architectural styles;
 11. The use and variety of materials;
 12. The separation and buffering of parking areas and sections of parking areas;
 13. The variety and design of dwelling types;
 14. The particular land uses proposed and the conditions and limitations thereon;
 15. The form of ownership proposed for various uses; and
 16. Any other factor deemed relevant to the privacy, safety, preservation, protection or welfare of any existing or proposed use on the site.

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- c. *External compatibility.* All proposed conditional uses must be compatible with existing and planned uses of surrounding properties; that is, no internal use may have any avoidable or undue adverse impact on any existing or planned surrounding use. An evaluation of the external compatibility of a proposed conditional use should be based on the following factors:
1. All of those factors listed in subsection (6)b of this section;
 2. The particular uses proposed and the conditions and limitations thereon;
 3. The type, number and location of surrounding external uses;
 4. The Sanibel Plan designation and zoning on surrounding lands; and
 5. Any other factor deemed relevant to the privacy, safety, preservation, protection or welfare of lands surrounding the proposed conditional use and any existing or planned use of such lands.
- d. *Intensity of development.* The residential density and intensity of commercial use of a conditional use shall be compatible with (that is, shall have no undue adverse impact upon) the physical and environmental characteristics of the site and surrounding lands. Within the maximum limitation of the Sanibel Plan and this Land Development Code, the permitted residential density and intensity of commercial use in a proposed conditional use may be adjusted in consideration of the following factors:
1. The locations of various proposed uses within the site and the degree of compatibility of such uses with each other and with surrounding uses;
 2. The amount and type of protection provided for the safety, habitability, and privacy of land uses both internal and external to the site;
 3. The existing residential density and intensity of commercial use of surrounding lands;
 4. The availability and location of utilities, services and public facilities and services;
 5. The amount and size of open spaces, plazas, common areas and recreation areas;
 6. The use of energy-saving techniques and devices, including sun and wind orientation;
 7. The existence and treatment of any environmental hazards to the site or surrounding lands;
 8. The access to and suitability of transportation routes proposed within the site and existing external transportation systems and routes; and
 9. Any other factor deemed relevant to the limitation of the intensity of development for the benefit of the public health, welfare and safety.
- e. *Environmental constraints.* The site of the proposed conditional use shall be suitable for use in the manner proposed without hazards to persons, vegetation, or wildlife, either on or off the site from the likelihood of increased flooding, erosion, or other dangers, annoyances, or inconveniences. Condition of soil, water level, drainage, and topography shall all be appropriate to the pattern and intensity of development intended.
- f. *Off-street parking.* Sufficient off-street parking, for bicycles and other vehicles as well as cars, shall be provided. The specific requirements of this Land Development Code shall be used as a guide only. Parking areas shall be constructed in accordance with such standards as are approved by the planning commission to ensure that they are safe and maintainable and that they allow for sufficient privacy for adjoining uses.

(Ord. No. 85-26, § 1(i.1.2), 11-27-1985; Ord. No. 86-25, §§ 12, 13, 6-17-1986)

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Sec. 126-83. - Resort housing accessory commercial uses

Resort housing accessory commercial uses shall be permitted as a conditional use subject to the following conditions set forth in this section:

- (1) The development must contain 25 or more dwelling units.
- (2) Access to the accessory use shall only be from within the development and not from any abutting street or public way.
- (3) All of the dwelling units in the development must either be under common ownership or be approved under one development permit which unites the lands upon which the dwelling units and accessory use are located as a single lot and as to which effective restrictive covenants are recorded on the public records of the county which perpetuate the right of dwelling unit owners, tenants and guests to use such accessory commercial use.
- (4) Resort housing accessory commercial uses must either be limited to the exclusive use of the owners, tenants and guests of the resort housing dwelling units or else provide additional parking on the site equivalent to one-half the number of parking spaces which would be required of a similar commercial use in a commercial district.
- (5) The resort housing accessory commercial use may be no larger than the applicant can demonstrate is reasonably necessary to serve the needs of the owners, tenants and guests of the resort housing dwelling units.
- (6) Resort housing accessory commercial uses shall be limited to restaurants, recreational lessons and nonmotorized equipment rentals, retail sales of recreational equipment (other than vehicles, boats, and motorized equipment) used in conjunction with activities available on the site, retail sales of food items and sundries (utilizing no more than 200 square feet of floor area for any resort housing development, restricted real estate sales and rental offices and vending machines).
- (7) In the case of real estate sales and rental offices, use shall be restricted to sale and rental of whole ownership and timeshare units located on the site, and not for off-site sales and rentals. In addition, the following restrictions shall apply:
 - a. Hours of operation shall be limited to 9:00 a.m. to 6:00 p.m. daily.
 - b. No additional on-site parking shall be required.
 - c. Permanent street graphics and temporary "open house" signs advertising the sales activity are expressly prohibited.
 - d. A fully executed resolution from the board of directors of the respective condominium association or other governing body setting forth the consent and authority for the establishment of the on-site sales and rental office shall be submitted with an application for the conditional use.
 - e. Only one on-site sales or rental office may be authorized for each separate resort use.
 - f. The for sale inventory shall consist of a minimum annual average of five percent of the total number of whole ownership or timeshare units at a given resort property in order to continue the sales office use. The respective board of directors shall provide to the city an annual accounting of the for sale inventory, with the year commencing on the date a development permit is issued for the use.
 - g. The use must be conducted within a completely enclosed building.
- (8) No rental of bicycles or other human-powered vehicles which exceed 36 inches total width shall be permitted.
- (9) Reserved.
(Ord. No. 85-26, § 1(I.1.3(e)), 11-27-1985; Ord. No. 87-02, § 14, 1-6-1987; Ord. No. 88-22, § 1, 7-5-1988; Ord. No. 89-23, § 50, 8-15-1989; Ord. No. 91-29, § 1, 7-2-1991; Ord. No. 98-07, § 2, 4-21-1998; Ord. No. 03-013, § 3, 11-18-2003)

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Sec. 126-84. - Foster family homes

Foster family homes shall be permitted as a conditional use subject to the following conditions set forth in this section:

- (1) No foster family home may be located any closer than 1,320 feet, measured in a straight-line distance from lot line to lot line, from any existing residential child caring facility, assisted living facility or other foster family home.
- (2) A foster family home may be permitted to house only as many foster children as would bring the total occupancy of the dwelling unit to two persons per bedroom.
- (3) Such use must comply with all state licensing requirements which are applicable.

(Ord. No. 85-26, § 1(l.1.3(f)), 11-27-1985; Ord. No. 89-23, § 50, 8-15-1989)

Sec. 126-85. - Increased-density below market rate housing

Increased-density below market rate housing shall be permitted as a conditional use subject to the following conditions set forth in this section:

- (1) The planning commission may recommend to the city council, for below market rate housing, a greater development intensity than the maximum residential density established in section 86-91, but the density approved for below market rate housing shall be compatible with and shall have no detrimental effect on surrounding lands and actual and permitted uses thereof. Any recommended increases in maximum residential density shall require that such additional units be committed to the below market rate housing program.
- (2) Below market rate housing units permitted as a conditional use must comply in all respects with the requirements of chapter 102, article II.
- (3) All or a portion of the below market rate housing units may be set aside for either exclusive or preferential assignment to on-island employees of the owner who are financially qualified, but only to the extent specifically approved by the planning commission as part of the conditional use approval.

(Ord. No. 85-26, § 1(l.1.3(g)), 11-27-1985; Ord. No. 86-32, § 1, 8-19-1986; Ord. No. 89-23, §§ 31, 50, 8-15-1989; Ord. No. 90-07, § 2, 5-15-1990)

Sec. 126-86. - Residential child caring facilities and assisted living facilities

Residential child caring facilities and assisted living facilities shall be permitted as conditional uses subject to the following conditions set forth in this section:

- (1) Such uses shall not be permitted a total occupancy in excess of two persons per bedroom.
- (2) Such uses shall comply with the maximum permitted residential densities established in section 86-91, except that each three bedrooms therein shall be deemed to be the equivalent of one dwelling unit.
- (3) Such uses shall be developed with architectural features compatible and harmonious with surrounding uses and structures.
- (4) Required parking for such uses shall be the same as for multifamily residential developments, plus one additional parking space for an assisted living facility.

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- (5) No residential child caring facility or assisted living facility may be located any closer than 1,320 feet, measured in a straight-line distance from lot line to lot line, to any existing foster family home or other residential child caring facility or assisted living facility.
- (6) Any such facility must comply with all state licensing requirements for such foster family home or other residential child caring facility or assisted living facility.
- (7) The planning commission shall require that wastewater disposal facilities provided for the development are adequate to serve the needs of the use as proposed.

(Ord. No. 85-26, § 1(1.1.3(h)), 11-27-1985; Ord. No. 89-23, § 50, 8-15-1989)

Sec. 126-87. - Combined residential and commercial development

Combined residential and commercial development may be permitted as a conditional use subject to the following conditions set forth in this section:

- (1) No more than one dwelling unit shall be located on a lot or parcel where retail uses are located unless the development permit limits the hours of activity for such retail uses to the period of 8:00 a.m. to 9:00 p.m., or unless the dwelling units are separated from the commercial units and commercial parking areas by 100 feet or more.
- (2) The mixture of residential and commercial uses on the lot or parcel shall be designed so as to minimize to the greatest extent practical the potential detrimental influence of commercial uses on residential uses, including the location of entranceways and the use of soundproofing materials.
- (3) Residential uses shall be designed and located so as to create, to the maximum extent practicable, a pleasant residential environment. Nothing in this section shall prohibit, however, the location of dwelling units above commercial uses in the same structure, provided such dwelling units are designed and separated from the commercial uses so as to sufficiently and reasonably provide a pleasant residential environment.
- (4) The total required parking for both the commercial uses and the residential uses shall be provided.
- (5) The mixture of dwelling units and commercial development on any site shall be designed in compliance with the following standard: Dwelling units may be permitted, up to the maximum number of dwelling units permitted by the development intensity map, provided the maximum permitted commercial floor area is reduced by 1,000 square feet for each dwelling unit.

(Ord. No. 85-26, § 1(1.1.3(i)), 11-27-1985; Ord. No. 89-15, § 1, 5-16-1989; Ord. No. 89-23, § 50, 8-15-1989)

Sec. 126-88. - Outdoor storage

Outdoor storage in conjunction with a permitted commercial use shall be permitted as a conditional use subject to the following conditions set forth in this section:

- (1) Such outdoor storage shall be limited to the minimum amount reasonably necessary to adequately conduct the permitted commercial use.

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- (2) All permitted outdoor storage shall be completely enclosed by a vegetation screen or by a combination of a vegetation screen and approved structures. Any part of the enclosure which consists of a vegetation screen shall be sufficiently dense as to reasonably screen the storage area from view from any street or adjoining property. Such vegetation screen shall be composed of native plants which shall be installed and maintained in accordance with the requirements of chapter 122, article II, division 2 for installation and maintenance standards. At the option of the applicant, the outdoor storage area may also be enclosed with a fence located inside the required vegetation screen enclosure, at a height not to exceed that of the vegetation screen or six feet, whichever is higher. Notwithstanding the requirements of chapter 122, article II, division 2 however, the planning commission may require as a condition of approval under this section that the trees, shrubs, and bushes of the vegetation screen be installed and maintained larger than the minimum sizes specified in chapter 122, article II, division 2, so as to accomplish the purpose and intent of this subsection.
- (3) When a vegetation screen required by subsection (2) of this section cannot reasonably be provided because of existing paving or because of the existence of parking spaces or other facilities required by this Land Development Code which could not lawfully and reasonably be relocated on the site, the planning commission may approve some alternative form of screening sufficient to accomplish the purpose therefor.

(Ord. No. 85-26, § 1(l.1.3(j)), 11-27-1985; Ord. No. 86-25, § 14, 6-17-1986; Ord. No. 89-23, § 50, 8-15-1989)

Sec. 126-89. - Rehabilitation centers and social service homes

Rehabilitation centers and social service homes shall be permitted as conditional uses subject to the following conditions set forth in this section:

- (1) Such uses shall be developed in accordance with all requirements for commercial uses in the district in which they are located, including commercial landscaping requirements.
- (2) Such uses shall not be located adjacent to relatively high-intensity, high-traffic commercial uses.
- (3) Such uses may not be located any closer than 100 feet to an existing dwelling unit which is not located in a commercial district.
- (4) Such uses must comply with all state licensing requirements applicable thereto.

(Ord. No. 85-26, § 1(l.1.3(k)), 11-27-1985; Ord. No. 89-23, § 50, 8-15-1989)

Sec. 126-90. - Drive-in and drive-through facilities

Drive-in and drive-through facilities in conjunction with a permitted conditional use shall be permitted as a conditional use subject to the following conditions set forth in this section:

- (1) No access driveway to any parcel on which such use is located shall be any closer than 200 feet to the intersection of Periwinkle Way with Causeway Road, Beach Road, Donax Street, Dixie Beach Boulevard, Casa Ybel Road, Palm Ridge Road, or Tarpon Bay Road, or the intersection of Tarpon Bay Road with Palm Ridge Road, as measured from the closest outermost edge of the intersecting access driveway, not including the turning radius, as extended to the centerline of the intersected street to the closest outermost edge of the intersecting street, not including the turning radius, as extended to the centerline of the intersected street.
- (2) All drive-in or drive-through service areas shall be designed to stack a minimum of four cars per lane, without interfering with on-site or off-site traffic circulation.

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- (3) All drive-in or drive-through service areas shall be counted toward the maximum permitted commercial floor area for the parcel.
- (4) Nothing in this article or any other provision of this Land Development Code shall be construed to allow drive-up, drive-through or drive-in lanes with carry-out service windows in or at any restaurant, food service operation or beverage or liquor store, and drive-up, drive-through or drive-in lanes with carry-out service windows in or at any restaurant, food service operation or beverage or liquor store are specifically prohibited.

(Ord. No. 85-26, § 1(l.1.3(l)), 11-27-1985; Ord. No. 86-25, § 15, 6-17-1986; Ord. No. 89-23, § 50, 8-15-1989; Ord. No. 91-37, § 1, 8-20-1991; Ord. No. 93-16, § 2, 8-3-1993)

Sec. 126-91. - Eating places, restaurants, grocery stores, etc., not listed as a permitted use

Eating places, such as restaurants, grocery stores, delicatessen stores, food markets, convenience stores, carry-out food stores not listed as a permitted use, including ice cream shops, and any permitted commercial use involving on-site food preparation or processing shall be permitted as conditional uses subject to the following conditions set forth in this section:

- (1) No access driveway to any parcel on which such use is located shall be any closer than 200 feet to the intersection of Periwinkle Way with Causeway Road, Beach Road, Donax Street, Dixie Beach Boulevard, Casa Ybel Road, Palm Ridge Road, or Tarpon Bay Road, or the intersection of Tarpon Bay Road with Palm Ridge Road, as measured from the closest outermost edge of the intersecting access driveway, not including the turning radius, as extended to the centerline of the intersected street to the closest outermost edge of the intersecting street, not including the turning radius, as extended to the centerline of the intersected street.
- (2) The planning commission shall require that the wastewater disposal facilities for any use approved pursuant to this section are adequate to serve the needs of the use as proposed, and may require such security as it deems necessary to ensure that the system installed is replaced if it proves to be inadequate or may condition the approval of such use upon such modifications and improvements to the system as are reasonably necessary after the use if developed.
- (3) All restaurants with more than 50 seats must be connected to the city sewer system.
- (4) All restaurants must be located at least 100 feet from any existing dwelling unit, except for a dwelling unit located in a commercial district. Any such use shall be required to be soundproofed to the extent reasonably necessary to ensure compliance with all existing ordinances of the city relating to the creation of noise.
- (5) Nothing in this article or any other provision of this Land Development Code shall be construed to allow formula restaurants.

(Ord. No. 85-26, § 1(l.1.3(m)), 11-27-1985; Ord. No. 86-25, § 16, 6-17-1986; Ord. No. 89-23, § 50, 8-15-1989; Ord. No. 98-05, § 4, 3-17-1998; Ord. No. 91-37, § 1, 8-20-1991; Ord. No. 96-10, § 3, 9-17-1996)

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Sec. 126-92. - Motion picture theaters, except drive-in, and theaters for live performances

Motion picture theaters, except drive-in, and theaters for live performances shall be permitted as conditional uses subject to the following conditions set forth in this section:

- (1) No access driveway to any parcel on which such use is located shall be any closer than 200 feet to the intersection of Periwinkle Way with Causeway Road, Beach Road, Donax Street, Dixie Beach Boulevard, Casa Ybel Road, Palm Ridge Road, or Tarpon Bay Road, or the intersection of Tarpon Bay Road with Palm Ridge Road, as measured from the closest outermost edge of the intersecting access driveway, not including the turning radius, as extended to the centerline of the intersected street to the closest outermost edge of the intersecting street, not including the turning radius, as extended to the centerline of the intersected street.
- (2) No such use shall be located any closer than 100 feet to any existing dwelling unit, except a dwelling unit in a commercial district.
- (3) Any such use shall be required to be soundproofed to the extent reasonably necessary to ensure compliance with all existing ordinances of the city relating to the creation of noise.

(Ord. No. 85-26, § 1(I.1.3(n)), 11-27-1985; Ord. No. 86-25, § 17, 6-17-1986; Ord. No. 89-23, § 50, 8-15-1989; Ord. No. 91-37, § 1, 8-20-1991)

Sec. 126-93. - Gasoline service stations

Gasoline service stations shall be permitted as a conditional use subject to the following conditions set forth in this section:

- (1) No access driveway to any parcel on which such use is located shall be any closer than 200 feet to the intersection of Periwinkle Way with Causeway Road, Beach Road, Donax Street, Dixie Beach Boulevard, Casa Ybel Road, Palm Ridge Road, or Tarpon Bay Road, or the intersection of Tarpon Bay Road with Palm Ridge Road, as measured from the closest outermost edge of the intersecting access driveway, not including the turning radius, as extended to the centerline of the intersected street to the closest outermost edge of the intersecting street, not including the turning radius, as extended to the centerline of the intersected street.
- (2) All gasoline pumps (including pumps for dispensing any form of motor vehicle fuel) and service islands, as well as adequate area for the parking of automobiles next to such pumps, shall be located within minimum required setbacks and shall be counted toward the maximum permitted commercial floor area for the parcel.
- (3) Lanes for access to gasoline pumps or service islands shall be designed so that one automobile can park at each pump or pump island behind the vehicle being refueled, without interfering with on-site or off-site traffic circulation.
- (4) Outdoor displays of merchandise shall be limited to cans of oil or other vehicle fluids and such minor equipment and accessories as windshield wiper blades, fuses and similar equipment and accessories. Such displays of merchandise shall not be located so as to interfere with on-site traffic circulation.
- (5) A gasoline service station may include an accessory drive-through car wash, provided the required conditions for a car wash as a conditional use are met.
- (6) No vehicle lift or repair facilities shall be located outside of the principal structure.

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- (7) Minor adjustments or repairs to automobiles, trucks, trailers, or other vehicles which do not require body work, painting, or removal of engines from frames or dismantling of differentials shall be permitted as an accessory use. Additional adjustments or repairs at gasoline service stations shall only be permitted within zoning districts where such automotive repairs are a permitted principal use.
- (8) The planning commission shall ensure that the wastewater disposal system is adequate for the use as proposed.

(Ord. No. 85-26, § 1(l.1.3(o)), 11-27-1985; Ord. No. 86-25, § 18, 6-17-1986; Ord. No. 89-23, § 50, 8-15-1989)

Sec. 126-94. - Vehicle rental and leasing

Automotive rental and leasing, boat and canoe rentals, motorcycle rentals, including mopeds, and rental of bicycles shall be permitted as conditional uses subject to the following conditions set forth in this section:

- (1) No access driveway to any parcel on which such use is located shall be any closer than 200 feet to the intersection of Periwinkle Way with Causeway Road, Beach Road, Donax Street, Dixie Beach Boulevard, Casa Ybel Road, Palm Ridge Road, or Tarpon Bay Road, or the intersection of Tarpon Bay Road with Palm Ridge Road, as measured from the closest outermost edge of the intersecting access driveway, not including the turning radius, as extended to the centerline of the intersected street to the closest outermost edge of the intersecting street, not including the turning radius, as extended to the centerline of the intersected street.
- (2) All areas in which rental cars, mopeds, bicycles, and boats are parked or stored shall be located behind minimum required setbacks and shall be counted toward the maximum permitted developed area for the parcel.
- (3) Conditional use permits shall not be issued for the rental of bicycles or other human-powered vehicles which exceed 36 inches total width.

(Ord. No. 85-26, § 1(l.1.3(p)), 11-27-1985; Ord. No. 86-25, § 19, 6-17-1986; Ord. No. 89-23, § 50, 8-15-1989; Ord. No. 91-29, § 2, 7-2-1991; Ord. No. 91-37, § 1, 8-20-1991)

Sec. 126-95. - Car washes

Car washes shall be permitted as a conditional use subject to the following conditions set forth in this section:

- (1) No access driveway to any parcel on which such use is located shall be closer than 200 feet to the intersection of Periwinkle Way with Causeway Road, Beach Road, Donax Street, Dixie Beach Boulevard, Casa Ybel Road, Palm Ridge Road, or Tarpon Bay Road, or the intersection of Tarpon Bay Road with Palm Ridge Road, as measured from the closest outermost edge of the intersecting access driveway, not including the turning radius, as extended to the centerline of the intersected street to the closest outermost edge of the intersecting street, not including the turning radius, as extended to the centerline of the intersected street.
- (2) The planning commission shall ensure that the wastewater disposal system designed and installed for such use shall be installed and maintained in such fashion and to such standards as reasonably necessary to serve the needs of the use as proposed.

(Ord. No. 85-26, § 1(l.1.3(q)), 11-27-1985; Ord. No. 89-23, § 50, 8-15-1989; Ord. No. 91-37, § 1, 8-20-1991)

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Sec. 126-96. - Docks, boat davits, boat lifts and mooring pilings

Docks, boat davits, boat lifts and mooring pilings shall be permitted as a conditional use in the bay beach zone, except in the portion of this zone extending from the west boundary of Lighthouse Park to the west right-of-way boundary of Dixie Beach Boulevard at Woodring's Point. In the portions of this zone where such use is permitted as a conditional use, such structures shall be permitted only upon a finding by the planning commission that all of the following conditions are met:

- (1) Such use shall be an accessory use to a permitted residential use in the adjacent ecological zone.
- (2) The structures shall be located on the same lot as the permitted residential use.
- (3) No lot or parcel used for single-family or duplex dwelling units, or zoned only for such residential uses, may have more than one dock, with facilities for no more than two boats.
- (4) For all docks, boat davits and boat lifts, permanent double berthing is permitted only when such docking system is specifically identified in an application clearly demonstrating compliance with all the standards of this section, and specifically approved by the conditional use permit.
- (5) Roofing and enclosures shall not be permitted on docks, boat davits, or boat lift structures, including mooring pilings.
- (6) Boat davits and boat lifts shall only be permitted where attached to or adjacent to a dock.
- (7) The structures can be placed in the tidal flow in such a manner as to minimize adverse environmental impacts.
- (8) The structures shall be extended seaward, from the mean high water line, no greater distance than is necessary to provide reasonable use of the facility and to provide boat docking or mooring only where the mean low water level is at least 3½ feet above bottom surface, but in no event shall such structure extend seaward more than 150 feet from the mean high water line.
- (9) The dock, boat davit or boat lift shall not intrude into navigation channels or otherwise obstruct navigation.
- (10) The size of the surface area of the dock platform, not including the walkway to the dock, shall not exceed 200 square feet.
- (11) The dock platform and walkway to the dock shall have a maximum width of four feet.
- (12) Height restrictions.
 - a. The height above mean high water, of the lowest horizontal structural member of the walkway to the dock and of the dock platform, shall not exceed, by more than six inches, the minimum height required by state law or regulation.
 - b. With an exception for the height of the access walkway as provided for in subsection (10) of this section, the height of the surface of the decking for the walkway to the dock and for the dock platform shall not exceed, by more than 20 inches, the height of the bottom of the lowest horizontal structural member.
 - c. The height of required railing shall not exceed, by more than three inches, the minimum required by the building code.
 - d. The height of mooring piling shall not exceed ten feet above the mean high water line.
- (13) No dock, boat davits, boat lifts and mooring pilings shall be located closer than 30 feet to any property line, as extended into the water.
- (14) Piling pairs for the walkway to the dock shall be placed at least 15 feet apart. Pilings shall be no greater in number and size than necessary to support the structure, given the anticipated use and soil conditions.

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- (15) The walkway to the dock shall either be interrupted or be elevated to allow public access underneath, with at least six feet of clearance between the beach and the lowest member of the dock, in the area between mean high water and the mean low water line. However, as an alternative, a property owner may grant a public access easement adequate to provide reasonable passage around or across the walkway if proper ramping is provided.
- (16) Deck planks shall be no wider than six inches wide. The deck planks shall be spaced at least one inch apart.
- (17) Materials utilized in marine construction shall not be treated with chemicals which may have a detrimental effect on water quality, including creosote, tri-butyl tin and all asbestos treatments.
- (18) Turbidity screening shall be employed during subsurface construction, to remain in place a minimum of 24 hours after construction is completed to ensure protection of water quality in the area.
- (19) A marine habitat, such as the placement of rip-rap, shall be provided under the dock platform.
- (20) The dock, boat davit or boat lift shall be located so as to avoid, as far as possible, the disturbance of any shell bed or grass bed.
- (21) Railings shall be installed along the sides of the dock to prevent the docking or mooring of boats in any area of the dock that the water depth is less than 3½ feet at mean low water.
- (22) Lighting fixtures may be installed upon docks, boat davits and boat lifts only in accordance with the following standards:
 - a. Lighting required under federal laws or regulations as an aid to navigation is permitted on docks, boat davits and boat lifts, in accordance with United States Coast Guard standards.
 - b. Other lighting fixtures may be installed on docks only providing they are mushroom-type fixtures designed to direct light downward, installed at least 25 feet apart, not more than one foot above the surface of the dock, and limited to 25 watt incandescent yellow bulbs.
 - c. All existing lighting on docks, boat davits and boat lifts which does not conform to these standards shall be deemed nonconforming and shall be made to conform.
- (23) A certified topographic survey, by a registered professional surveyor, indicating the mean high water line, approximate mean high and low water depths, the location of any shoals, depressions, holes, and manmade structures and the location of the navigation channel. The mean high water line shall be staked by the surveyor before an application for a permit is submitted and the staking shall be maintained in place until the completion certificate is issued.
- (24) A vegetation survey of the bay bottom, along the full width of the applicant's property, shall be provided. Such survey shall disclose, locate and identify all existing conditions, such as, but not limited to, grass beds, shell beds, shoals, depressions and holes.
- (25) As a condition of a development permit for a dock, boat davit or boat lift, an applicant shall be required to establish compliance with all federal, state or county permitting requirements.
- (26) Shoal signs shall be posted in any grass beds or shell beds.
- (27) Signs shall be posted at the end of the dock to warn boaters of shallow waters.

(Ord. No. 85-26, § 1(1.1.3(r)), 11-27-1985; Ord. No. 89-08, § 1, 2-21-1989; Ord. No. 89-23, § 50, 8-15-1989; Ord. No. 93-18, § 2, 9-21-1993; Ord. No. 95-19, § 1, 12-19-1995)

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Sec. 126-97. - Automotive repair shops and marine sales and repair shops

Automotive repair shops and marine sales and repair shops shall be permitted as conditional uses subject to the following conditions set forth in this section:

- (1) Any such use must be located at least 100 feet from any existing dwelling unit, except for a dwelling unit located in a commercial district.
- (2) No automotive or marine repair area may be located outside of a completely enclosed building.

(Ord. No. 85-26, § 1(l.l.3(s)), 11-27-1985; Ord. No. 86-25, § 20, 6-17-1986; Ord. No. 89-23, § 50, 8-15-1989)

Sec. 126-98. - Coin-operated laundries

Coin-operated laundries shall be permitted as a conditional use subject to the following conditions set forth in this section:

- (1) The planning commission shall require that the wastewater disposal system designed and installed for any such use is installed and maintained in such fashion and to such standards as are reasonably necessary to serve the needs of the use as proposed.
- (2) The planning commission may require such security as it deems necessary to ensure that the wastewater disposal system is replaced if it proves to be inadequate or may condition the approval of any such use upon such modifications and improvements to the wastewater disposal system as are reasonably necessary after the use if developed.

(Ord. No. 85-26, § 1(l.l.3(t)), 11-27-1985; Ord. No. 86-25, § 21, 6-17-1986; Ord. No. 89-23, § 50, 8-15-1989)

Sec. 126-99. - Erosion control structures

Erosion control structures shall be permitted as conditional uses on the banks of natural water bodies, e.g., San Carlos Bay, Dinkins Bayou, Clam Bayou, and Blind Pass, subject to the following conditions set forth in this section:

- (1) The application for conditional use approval under this section shall be prepared by a professional engineer registered in the state having experience in coastal engineering, with assistance from a marine biologist, and shall include:
 - a. An inventory and map of existing grass beds, shell beds and other living components of the marine environment that may be affected by the installation of the proposed structure and an assessment of the impact of the proposed structure on these identified natural resources;
 - b. A technical report examining alternatives to the proposed structure, including, along with others, doing nothing, public or private (e.g., Sanibel Captiva Conservation Foundation) purchase, beach renourishment where more than 200 lineal feet of structure are proposed, relocation or removal of existing structures, transfer of development rights, and other structural designs;
 - c. An assessment of the potential for harm to existing structures, both public and private, including roads, both on and off the subject parcel, if the proposed structure is not installed;
 - d. A report investigating the cause of the erosion, including a study with substantiating evidence that erosion is occurring at the location of the proposed structure and a projection of anticipated erosion with and without the proposed structure;

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- e. An assessment of the cumulative effect of existing revetments, groins, seawalls, bulkheads, docks, erosion control structures, and other structures, including the proposed structure, on the subject ecological zone in terms of the zone's functions as contained in the Sanibel Plan, Section 2.3.1, Preservation of Ecological Functions Relating to Health, Safety and Welfare; and
 - f. Such other information as may be necessary for a complete determination on the application.
- (2) Seawalls, bulkheads and rigid, nonflexible structures which resist or redirect wave action are expressly prohibited.
 - (3) Structures may not be approved under this section unless one of the adjoining lots contains an existing erosion control structure, seawall or revetment.
 - (4) Structures approved under this section shall be the minimum necessary to accomplish the intended purpose as determined by the planning commission.
 - (5) The structure shall be installed and maintained so as to preserve and protect existing vegetation which stabilizes the bank.
 - (6) The structure shall meet the following minimum requirements:
 - a. The slope of the structure shall approximate as closely as possible the natural beach profile, but in no case shall the slope be steeper than two feet horizontal to one foot vertical.
 - b. Polyfilter "X" fabric or equivalent, which extends a minimum of five feet landward from the crest and five feet waterward of the toe of the stabilized slope, shall be installed prior to placement of properly sized rip-rap or other approved materials.
 - c. The elevation of the crest and the toe of the revetment shall be such that waves will not erode the area above and below the revetment under "normal" conditions—i.e., except for severe storms.
 - d. Red mangroves (one year old, one-foot minimum height, nursery grown seedlings, or equivalent) shall be planted within the toe of the structure on three-foot (minimum) centers in areas where no native vegetation exists. Additional vegetation suitable for erosion control, provision of wildlife habitat and water quality improvement shall be planted on the slope within the structure in sufficient density to contribute to bank stability and to create a natural appearing bank at maturity.
 - e. The ends of the structure shall be tied into the existing structures on adjoining lots in a manner which contributes to the stability of each structure; where an existing structure adjoins the proposed structure at only one end, the other end of the proposed structure shall be tied into the subject parcel in a manner which minimizes the potential for flank erosion.
 - f. If there is an existing revetment, seawall or bulkhead on the subject parcel, that existing structure shall be removed and replaced with a structure in conformance with the standards of this section except for any contiguous portion of the structure which extends for more than 50 percent of the bank on the lot, is structurally sound, was lawfully installed and permitted, is not causing erosion on other lots, and is properly functioning. Any portion of an existing structure which is not required to be replaced by this subsection shall be protected against undermining by installation of rip-rap or other acceptable materials at the toe of the structure.
 - (7) The planning commission may place conditions on the timing and sequence of construction in order to protect existing habitats or nesting, feeding or reproductive areas.
 - (8) The bay beach zone shall be established by survey prior to installation of the erosion control structure. The line 50 feet landward of the mean high water line established by this survey, which is the boundary of the bay beach zone, shall not be moved waterward because of the installation of the erosion control structure.

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- (9) The mean high water line shall be established by survey prior to the installation of the erosion control structure and the mean high water line shall not be moved waterward because of the installation of the erosion control structure.

(Ord. No. 85-26, § 1(l.1.3(u)), 11-27-1985; Ord. No. 86-33, § 4, 9-2-1986; Ord. No. 88-02, § 17, 1-19-1988; Ord. No. 89-23, § 50, 8-15-1989)

Sec. 126-100. - Accessory security guardhouses and security gates

Accessory security guardhouses and security gates without setbacks shall be permitted as a conditional use subject to the following conditions set forth in this section:

- (1) No specific setbacks shall apply to any such conditional use. The planning commission, however, shall require that such uses be located so as to minimize any hazard to traffic or pedestrian safety.
- (2) Security gates without setbacks may be located only so as to prevent access, by way of a private street or driveway, to a residential development of at least ten dwelling units.
- (3) Security gates without setbacks shall be designed so as to provide unimpeded access to emergency vehicles, and the method of access by emergency vehicles must be approved by the city police chief and the city fire control district.
- (4) Accessory security guardhouses without setbacks may only be located in or adjacent to a private street or driveway providing access to a residential development of at least ten dwelling units.
- (5) Accessory security guardhouses need not comply with the requirements of chapter 94
- (6) Accessory security guardhouses and security gates without setbacks shall be located so that there is as much room as possible, but an absolute minimum area of 20 feet, between any such structure and the traveled portion of any public road, right-of-way.

(Ord. No. 85-26, § 1(l.1.3(v)), 11-27-1985; Ord. No. 86-44, § 7, 11-18-1986; Ord. No. 89-23, § 50, 8-15-1989)

Sec. 126-101. - Seawalls as accessory structures

Seawalls as accessory structures shall be permitted as a conditional use in the mid-island ridge zone and the altered land zone, subject to the general requirements of section 126-82 and the following conditions set forth in this section:

- (1) The seawall shall be in a manmade canal at the following locations only:
 - a. Shell Harbor Subdivision;
 - b. Sanibel Harbors Subdivision;
 - c. Sanibel Isles Subdivision;
 - d. Water Shadows Subdivision;
 - e. Sanibel Estates Subdivision, Unit No. 4 only; or
 - f. Between Periwinkle Way and San Carlos Bay adjoining Mariner Point, Yacht Haven, Tennis Place and Harbor Cottages.
- (2) There shall be no more than 150 continuous lineal feet of unseawalled shoreline between existing seawalls where the seawall is proposed.
- (3) The top of the seawall must be high enough to prevent its being overtopped and the land behind the structure being eroded.

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- (4) Weep holes must be regularly spaced near the bottom of the seawall to relieve the buildup of pressure on the wall from groundwater and rain percolating through the soil.
- (5) The seawall must be made of materials strong enough to withstand anticipated battering by waves and wave-carried debris.
- (6) An apron of rip-rap shall be piled at the toe of the wall to absorb the wave energy and protect the underlying soft earth or sand from being carried away, thus permitting the toe to be undermined causing the seawall to tip over. This rip-rap shall be placed so as to protect the base of the seawall through the mean tide range and shall not constitute a hazard to navigation.
- (7) Polyfilter "X" cloth, or equivalent, shall be installed along the back of the seawall between the wall and the uplands. This filter cloth shall also be installed under the rip-rap placed at the toe of the wall.
- (8) The seawall shall be installed with a sufficient number of tiebacks and anchors to help prevent it from tipping over. Tieback rods shall be protected against corrosion.
- (9) Where vegetation exists which filters surface water runoff, provides terrestrial or aquatic habitat, or stabilizes the shoreline, such vegetation shall be preserved by installing the seawall landward of such vegetation.
- (10) The toe of the seawall shall have adequate penetration into the ground (a minimum of 40 percent of the height of the seawall) to develop the resistance necessary to keep the outward-acting forces of the fill behind the wall from forcing the bottom of the wall outward into the canal.
- (11) There shall be adequate embedment of the wall into the cap (a minimum of one-half the thickness of the cap) to prevent the wall and cap from rotating in different directions.
- (12) The seawall shall extend no farther into the waterway or canal than the banks, seawalls or revetments adjoining the property.
- (13) The seawall shall be tied into the adjoining seawall or well anchored to the shore with wingwalls or returns to resist flank erosion.
- (14) There shall be adequate concrete over all reinforcing steel in the wall and cap to prevent corrosion and spalling which would reduce the strength of the wall.
- (15) The city manager may require a professional engineer to certify the seawall has been designed and installed in conformance with these standards.

(Ord. No. 85-26, § 1(l.1.3(w)), 11-27-1985; Ord. No. 88-02, § 11, 1-19-1988; Ord. No. 89-23, § 50, 8-15-1989; Ord. No. 95-18, § 1, 12-19-1995)

Sec. 126-102. - Formula retail stores

Conditional use approval is required for all new formula retail stores, even if the prior use was a formula retail store, regardless of whether the prior formula retail store had obtained conditional use approval for that use. Formula retail stores may be permitted as a conditional use, subject to the following conditions set forth in this section:

- (1) The formula retail store shall be compatible with existing land uses on the same site as the formula retail store and with existing and permitted, adjacent and nearby land uses.
- (2) The formula retail store shall be designed and operated in a non-intrusive manner that preserves and is consistent with the historic, architectural, visual character and ambiance of the commercial sector of the community. Formula, standardized, "cookie-cutter" architecture, including architectural features, is prohibited.

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- (3) The floor area of the formula retail store shall not exceed 2,000 square feet of commercial floor area.
- (4) The proposed development intensity of the formula retail store shall not exceed that of other low and moderate intensity retail uses that are permitted on the site of the formula retail store.
- (5) The formula retail store shall not imbalance the variety and mixture of retail, office, and service uses that make up the commercial sector of the community.

A conditional use application for a new formula retail store that results in the total commercial floor area used by formula retail stores in all of the city's commercial districts to exceed 50,000 square feet, or as may be adjusted pursuant to section 126-1024 of this Code, requires planning commission review and city council approval, subject to the following conditions, in addition to the prior five conditions listed in this section:

- (6) The formula retail store, in aggregation with other formula retail stores in the city, shall not produce an imbalance between the resident-serving and resort (tourist) segments of the commercial sector of the community.
- (7) The formula retail store, in aggregation with other formula retail stores in the city, shall not frustrate the city's desire to retain a unique and diverse service and retail base in the local economy and to provide opportunities for small, local businesses.
- (8) The formula retail store, in aggregation with other formula retail stores in the city, shall not discourage the continuation of existing businesses or establishment of new businesses that serve the residential segment of the community.
- (9) The formula retail store, in aggregation with other formula retail stores in the city, shall retain the historical and visual character of the commercial sector.
- (10) The most basic of all of the economic assumptions for Sanibel's planning is that Sanibel's economic fortune is directly related to the viability of its natural systems. The formula retail store, in aggregation with other formula retail stores in the city, must not place added demand on Sanibel's natural and human made infrastructure. Sanibel must protect the environment because of the responsibility entrusted to the people of Sanibel to care for these resources, but also as a component of a sound economic policy. The economic base of Sanibel is the environment.

City council review of the conditional use application will be in accordance with the authorization, requirements and conditions established for the planning commission review of conditional use applications in sections 82-201, 82-202 and 82-203 of this Code.

(Ord. No. 06-022, § 22, 2-20-2007)

Sec. 126-103. - Any commercial building exceeding 6,000 square feet of commercial floor area

Any commercial building exceeding 6,000 square feet of commercial floor area, not including buildings occupied by the following uses that are exempt from this limitation: Grocery stores, hardware stores, restaurants and furniture and home furnishings stores, may only be permitted as a conditional use.

A conditional use application for a commercial building exceeding 6,000 square feet in commercial floor area, requires planning commission review and city council approval, subject to the conditions set forth in this section:

- (1) The size of the commercial building shall be compatible with existing and permitted, adjacent and nearby land uses and with existing land uses on the same site as the commercial building.

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- (2) The size of the commercial building shall be designed and operated in a non-intrusive manner that preserves and is consistent with the historic, architectural, visual character and ambiance of the commercial sector of the community.
- (3) Formula, standardized, "cookie-cutter" architecture, including architectural features, is prohibited.
- (4) The commercial building shall be designed in full compliance with:
 - a. The architectural standards in section 126-1028
 - b. The site planning standards in section 126-1029; and
 - c. The standards for compatibility with wildlife habitat, conservation land and residential areas in section 126-1030
- (5) The proposed size and development intensity of the commercial building shall not contribute to an imbalance in the mix of businesses that primarily serve the island and its residents and businesses and that primarily serve guests of resort housing developments and day visitors.

City council review of the conditional use application will be in accordance with the authorization, requirements and conditions established for the planning commission review of conditional use applications in sections 82-201, 82-202 and 82-203 of this Code.

(Ord. No. 06-022, § 23, 2-20-2007)

Sec. 126-104. - Variety or department stores or any commercial retail use with more than 2,000 square feet of commercial floor area

Variety or department stores and any commercial retail use with more than 2,000 square feet of commercial floor area, not including the following uses that are exempt from this limitation: Grocery stores and food markets, hardware stores, and furniture and home furnishings stores, may only be permitted as a conditional use:

A conditional use application for a commercial retail unit exceeding 2,000 square feet in commercial floor area, requires planning commission review and city council approval, subject to the conditions set forth in this section:

- (1) Any commercial retail use with more than 2,000 square feet of commercial floor area shall provide products or services principally for the residents, property owners and guests residing in the resort housing sector of the City of Sanibel.
- (2) Any commercial retail use with more than 2,000 square feet of commercial floor area, as with specific commercial uses that are exempt from this size limitation, shall demonstrate that more than 2,000 square feet of commercial floor area is reasonably necessary for the operation of the business.
- (3) The building containing the use does not appear as standardized design that is replicated from another location.
- (4) The use is not a formula retail store.
- (5) Any commercial retail use with more than 2,000 square feet of commercial floor area shall not frustrate the city's desire to retain a unique and diverse service and retail base in the local economy and to provide opportunities for small, local businesses.
- (6) Any commercial retail use with more than 2,000 square feet of commercial floor area shall not discourage the continuation of existing businesses or establishment of new businesses that serve the residential segment of the community.

Conditional Use

(WITH APPLICATION INFORMATION)

- (7) Any commercial retail use with more than 2,000 square feet of commercial floor area shall retain the historical and visual character of the commercial sector.

City council review of the conditional use application will be in accordance with the authorization, requirements and conditions established for the planning commission review of conditional use applications in sections 82-201, 82-202 and 82-203 of this Code.

(Ord. No. 06-022, § 24, 2-20-2007)

Sec. 126-105. - Commercial units with street frontage exceeding 50 linear feet

- (a) Any commercial unit with street frontage exceeding 50 linear feet for commercial units fronting on and within 200 feet of the right-of-way for an arterial or collector road, not including the following uses that are exempt from this limitation: Grocery stores, hardware stores, restaurants, and furniture and home furnishings stores, may only be permitted as a conditional use.
- (b) A conditional use application for a commercial unit with street frontage exceeding 50 linear feet for commercial units fronting on and within 200 feet of the right-of-way for an arterial or collector road, requires planning commission review and city council approval, subject to the conditions set forth in this section:
- (1) The width of the street frontage of the commercial unit shall be compatible with existing land uses on the same site as the commercial unit and with existing and permitted, adjacent and nearby land uses.
 - (2) The width of the street frontage of the commercial unit shall be designed in a manner that preserves and is consistent with the historic, architectural, visual character and ambiance of the commercial sector of the community.
 - (3) The commercial building shall be designed in full compliance with:
 - a. The architectural standards in section 126-1028
 - b. The site planning standards in section 126-1029; and
 - c. The standards for compatibility with wildlife habitat, conservation land and residential areas in section 126-1030
 - (4) The width of the street frontage of the commercial unit shall not frustrate the city's desire to retain a unique and diverse service and retail base in the local economy and to provide opportunities for small, local businesses.
 - (5) The width of the street frontage of the commercial unit shall not discourage the continuation of existing businesses or establishment of new businesses that serve the residential segment of the community.
- (c) City council review of the conditional use application will be in accordance with the authorization, requirements and conditions established for the planning commission review of conditional use applications in sections 82-201, 82-202 and 82-203 of this [Land Development] Code.

(Ord. No. 06-022, § 25, 2-20-2007)

CITY OF SANIBEL

INSTRUCTIONS FOR OBTAINING NAMES AND ADDRESSES OF ADJACENT PROPERTY OWNERS

Land Development Code Section 82-422 requires that notice of public hearing be mailed to the owners of all land located within three hundred feet of the extreme limits of the parcel proposed for development. The notice must be mailed at least fourteen days prior to the hearing.

To satisfy this notification requirement, LAND DEVELOPMENT CODE SECTION III.B.3.f. REQUIRES THE APPLICANT TO FURNISH THE NAMES AND ADDRESSES OF ALL PROPERTY OWNERS WITHIN A RADIUS OF 300 FEET OF THE EXTREME LIMIT OF THE PARCEL PROPOSED FOR DEVELOPMENT. THIS INFORMATION MUST BE OBTAINED BY THE APPLICANT FROM THE LEE COUNTY GEOGRAPHIC INFORMATION SYSTEM (GIS) DEPARTMENT AND SHALL INCLUDE THE FOLLOWING THREE ITEMS:

- ORIGINAL LOCATION MAP PREPARED BY THE LEE COUNTY GIS DEPARTMENT DEPICTING THE SUBJECT PARCEL AND LINES DEFINING THE 300 FOOT RADIUS;
- ORIGINAL COMPUTER REPORT PREPARED BY THE LEE COUNTY GIS DEPARTMENT LISTING ALL TAX PARCEL NUMBERS AND OWNERS WITHIN THE 300 FOOT RADIUS. THE COVER SHEET SHALL CLEARLY INDICATE THE DATE THE REPORT WAS PREPARED.
- ORIGINAL COMPUTER GENERATED MAILING LABELS FROM THE LEE COUNTY GIS DEPARTMENT FOR ALL LAND OWNERS WITHIN 300 HUNDRED FEET OF THE SUBJECT PARCEL.

This information must be current. Only material which has been obtained within 90 days prior to the application submittal date can be accepted.

TO OBTAIN THIS INFORMATION, CONTACT THE LEE COUNTY GEOGRAPHIC INFORMATION SYSTEM (GIS) DEPARTMENT AT 2480 THOMPSON STREET, FORT MYERS, FLORIDA (TELEPHONE: 339-6159). THE GIS DEPARTMENT IS LOCATED ON THE THIRD FLOOR OF THE FOUR STORY BUILDING AT THE CORNER OF THOMPSON AND FOWLER STREETS.

The material can usually be provided within three days from the date of the request. There is a fee for this service. The applicant is responsible for payment of all fees charged by the Lee County GIS Department.

If readvertisement and renotification of a public hearing is required, the applicant shall provide new adjacent property owner information prior to rescheduling.

When a condominium is located within 300 feet of the parcel, the names and mailing addresses of all individual unit owners must be included, as well as the association, where a separate address is shown in the tax roll. If it is an interval ownership condominium, only the name and mailing address of the complex as shown in the tax roll need to be furnished.

ALL LONG FORM APPLICATIONS FILED WITH THE CITY OF SANIBEL MUST INCLUDE ADJACENT PROPERTY OWNER NAMES AND ADDRESSES IN CONFORMANCE WITH THIS PROCEDURE. ONLY THE ORIGINAL COMPUTER GENERATED DATA FROM LEE COUNTY AS DESCRIBED IN THIS MEMORANDUM CAN BE ACCEPTED. SUBSTITUTIONS ARE NOT PERMITTED.

THE APPLICANT IS RESPONSIBLE FOR ACCURACY OF THE ADJACENT PROPERTY OWNER INFORMATION. FAILURE OF AN APPLICANT TO FURNISH A COMPLETE AND ACCURATE LIST COULD RESULT IN A CHALLENGE TO DECISIONS MADE AT THE HEARING.

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