

Section 86 - 43 enhancements: a lost opportunity.

Many people on Sanibel were very disappointed on February 2, 2010, when a bare majority on Council voted against significant enhancements to Section 86 - 43 of the Land Development Code. That's the section that deals with neighborhood rhythm and harmony. Here is some background on what transpired.

In a letter to City Council dated February 14, 2008, Planning Commission Chairman Michael Valiquette made the following observation about Section 86 - 43: "Both the Commission and the many citizens who have attended our recent meetings recognize that the current Land Development Code regulations do not provide appropriate guidance to applicants, the Planning Department and the Planning Commission." The letter went on to say "... this issue ... must be addressed to insure that the basic principles and policies of the Sanibel Plan." [sic] are met . The Chairman then requested Council authorization for the Commission to study and address potential amendments that would address "appropriately sized houses and neighborhood rhythm and harmony." Council approved that request.

For well over a year Commissioners and Planning Department staff worked diligently to develop an ordinance which would have enhanced Section 86 - 43 in two significant ways:

- First, it would have established a "trigger" for Planning Commission review for construction of a home that would be larger than the largest home in a given neighborhood. (Other triggers could have been chosen. Reasonable people could certainly differ on what is a proper trigger. Regardless of that issue, the obvious benefits of such a process are 1. closer scrutiny of the more difficult cases under 86 - 43 and 2. the opportunity for meaningful participation by all interested parties in those cases.)
- Second, it proposed a set of publicly available architectural and site plan guidelines which prospective homebuilders could, but would not be required to follow, to minimize the appearance of "mass" in a proposed structure and thus avoid potential problems under Section 86 - 43. (The obvious benefit would be that compliance with Section 86 - 43 could be addressed at the initial design stage rather than after plans are drawn and submitted for approval.)

When the matter came before Council, a majority (Vice Mayor Ruane, Councilmen Jennings and Harranty) directed that the ordinance put forth by the Planning Commission be drastically cut back to 1. eliminate any trigger for Planning Commission review, 2. eliminate the voluntary architectural and site plan guidelines and 3. provide for notice to neighboring property owners of a pending development permit application but without a right to participate meaningfully in the approval process. Mayor Denham and Councilman Pappas, to their credit, were opposed.

It is ironic that despite the urgency expressed by the Planning Commissioners and Council members in 2008 for meaningful enhancements to Section 86 - 43 and the considerable time and effort expended in devising a truly comprehensive ordinance, all that the citizens of Sanibel will have gotten from the process is a new definition of the word "neighborhood" and the right to lodge a protest with the Planning Department if they believe a proposed structure would violate Section 86 - 43. By the way, we are not

suggesting that the Planning Department will not be fair to property owners who feel aggrieved. We believe the staff would be fair. However, that is not a substitute for the right to participate in the proceedings as an interested party.

The decision to drop the architectural and site plan guidelines is contrary the public interest because it will eliminate the very type of guidance that was considered urgent in 2008 and perpetuate the uncertainty that currently exists. The concept of design guidelines is not new on Sanibel or other communities where appearance of structures is a priority. In fact, Council not long ago adopted similar voluntary guides for the commercial districts without controversy.

After all the thoughtful work that went into this process, we had hoped that a majority of Council members would do better than the eviscerated ordinance that was enacted on February 2.