

## **Aging resorts face issues of height, lot coverage, setbacks -- and more**

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As we said in our commentary last week, improving or replacing aging resort structures -- condominiums, hotels and motels -- is often a problem. Reason: Many were built before current building codes and are nonconforming. This means they could not, in many cases, be redeveloped without violating current density limits -- or other restrictions.

Last week we discussed ways in which City Council and the Planning Commission are working on plans to enable such structures to be improved without losing their current density.

The City feels, and the Committee of the Islands agrees, that such efforts would incentivize improvements and keep a significant portion of our resorts in the category of short-term rentals. These rentals are considered an essential building block in Sanibel's economy.

City Council has made it clear that, other than accommodating for density, it will require that any other non-conforming aspects must be corrected before redevelopment may take place.

We think this is the right approach and applaud Council's action. Here are the other nonconformance issues that will have to be addressed:

### **Lot Coverage, Impermeable Surfaces, and Developed Area**

In order to prevent the run-off of polluted storm water into surrounding surface waters -- and to maintain some native vegetation for wildlife habitat -- the City limits the extent to which a building lot may be cleared of vegetation and covered with impermeable surfaces.

The term "impermeable" refers to surfaces such as paving, or buildings themselves, that prevent the absorption of surface water. The limits vary by environmental zone. In the resort housing district, typically only 25% of the lot may be covered with impermeable surfaces. Any coverage that exceeding that limit is considered nonconforming. Council has directed that current limits on impermeable surfaces not be changed. We agree.

The City also has a limit on total developed area, which includes not only the impermeable areas but also such permeable improvements like shell or gravel driveways. The limit on total developed area is 30% of the entire lot.

While it might be possible for a property owner to obtain a variance to increase impermeable or developed areas, such variances are not lightly granted. So, whether and to what extent this will prove to be a practical approach for owners of nonconforming structures is unclear at this time.

Though it will be challenging given the strict rules governing variances, we believe the Planning Commission should seek ways to eliminate nonconformities on a case-by-case basis and consider changes in the law only as a last resort.

## **Height Limits**

The Sanibel Plan sets the height limit of buildings at three stories above base flood elevation. The Land Development Code has implemented the Plan by limiting the height of multiple dwellings to 45 feet above base flood elevation -- enough to accommodate three stories. The Council's guidance document on resort redevelopment, which it has provided to the Planning Commission, states that the Sanibel Plan height limit may not be exceeded during such redevelopment.

There are a number of older structures in the Resort Housing District which have four habitable stories. Under the City's post-disaster buildback ordinance, they may be replaced if they are destroyed in a natural disaster, like a hurricane. But in a *planned* redevelopment scenario -- one not related to a natural disaster -- Council has said they could be upgraded or modernized, but not redeveloped at the same height.

As we pointed out in an earlier commentary, post-disaster buildback and planned redevelopment present very different public policy imperatives and should be treated differently. Planned redevelopment is a voluntary process with no urgency or sudden loss of property. It is usually motivated by the hope of economic gain or improvement. When a building is destroyed in a disaster, the alternatives are stark -- to rebuild or suffer a loss. Loss of property is never an attractive alternative.

We think Council made the correct decision on height limits.

## **Setbacks**

Setbacks define areas around buildings which may not be developed. In addition to the customary distances from roadways and neighboring structures, Sanibel has a setback known as the 1974 Coastal Construction Control Line (CCCL). It helps reduce threats to public safety from storms and the beach environment by encroachment. The area forward of this line, which comprises the Gulf Beach Zone, is off-limits to development. Structures which were built forward of the CCCL are nonconforming.

Council has said that all setbacks in the Land Development Code, including the CCCL, are to be maintained during redevelopment. That means that, unlike the case of post-disaster buildback, structures forward of the CCCL may not be redeveloped, though they could be upgraded or modernized.

We think Council made the right decision here as well. Protection of human life and the fragile beach environment are good reasons that the Gulf Beach Zone remain off-limits to redevelopment.

### **Green technologies**

There is an emerging field of construction, called green technology, which aims to conserve limited resources and minimize environmental degradation. Council has encouraged the use of green technologies in its guidance document. We agree but do not believe the use of those technologies should entitle developers to concessions under existing regulations such as lot coverage. We hope green technologies will be implemented because they make good sense.

### **Conclusion**

We believe Council has taken the right approach, both by providing clear guidance to the Planning Commission and in its broad adherence to the principles of the Sanibel Plan in the guidance document. While it is true that redevelopment to current density goes beyond the founders' vision and the Plan, without that step meaningful redevelopment in the Resort Housing District could not occur, and an important element of the City's economy might be jeopardized.

As we had mentioned earlier, the issue of resort redevelopment is currently before the Planning Commission. Meeting times are announced in the press and on the City's website. We encourage you to participate and provide your input.

The Committee of the Islands also welcomes your input. You can provide it via our website at [coti.org](http://coti.org) or email us at [coti@coti.org](mailto:coti@coti.org).