



Building Department

City of Sanibel
Building Department
2475 Library Way
Sanibel, FL 33957
Phone: 239-472-4555

Building Official Response to petitioner response to request for additional information: Petition #317 – Code 2023 Florida Building Codes

Chief Building Official Craig Mole'

The permits for the build back of the Sanibel Island Whitecaps development 2907 West Gulf Dr which includes four duplex structures (permits # BLDR-2024-017219, 017228, 017232, 017233) and one 1 family structure (not yet permitted) were submitted in September 2024 and were issued in July 2025 and are currently under construction.

Response to Petitioner 12/24/25 additional information

General Response: The Building Official enforces the 2023 Florida Building Codes which includes the 2023 Florida Building Code, Accessibility. ADA is a Federal Standard which does not include strict vertical accessibility requirements of the FBC. The owners may apply for a waiver through the Florida Building Commission.

1,2, and 3. - Based on previously submitted Building Official Response the determination that this project structure is Transient Lodging Occupancy R-1 per 2023 FBC section 310.3 is based on the transient nature of the structure which is not owner occupied and rented for less than 30 days per 2023 FBC section 455, and Florida Statute.

a. Section 455 Public Lodging Establishments

Section 455.2 Definitions – see section 509.013

FS 509(4)(a) "Public lodging establishment" includes a transient public lodging establishment as defined in subparagraph 1. and a nontransient public lodging establishment as defined in subparagraph 2.

1. "Transient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 consecutive days or which is advertised



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or held out to the public as a place regularly rented to guests for periods of less than 30 consecutive days.

****There are no exclusions that apply to this project as they are advertised and not owner occupied.**

Florida Statute

509.242 Public lodging establishments; classifications.—

(1) A public lodging establishment shall be classified as a hotel, motel, nontransient apartment, transient apartment, bed and breakfast inn, timeshare project, or vacation rental if the establishment satisfies the following criteria:

(a) *Hotel*.—A hotel is any public lodging establishment containing sleeping room accommodations for 25 or more guests and providing the services generally provided by a hotel and recognized as a hotel in the community in which it is situated or by the industry.

(b) *Motel*.—A motel is any public lodging establishment which offers rental units with an exit to the outside of each rental unit, daily or weekly rates, offstreet parking for each unit, a central office on the property with specified hours of operation, a bathroom or connecting bathroom for each rental unit, and at least six rental units, and which is recognized as a motel in the community in which it is situated or by the industry.

(c) *Vacation rental*.—A vacation rental is any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project.

(d) *Nontransient apartment*.—A nontransient apartment is a building or complex of buildings in which 75 percent or more of the units are available for rent to nontransient tenants.



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(e) Transient apartment.—A transient apartment is a building or complex of buildings in which more than 25 percent of the units are advertised or held out to the public as available for transient occupancy.

This project structure is deemed a Place of Public Accommodation per the 2023 FBC, Accessibility:

b. 2023 FBC (accessibility)

Place of Public Accommodation. A *facility*, operated by a *private entity*, whose operations affect commerce and fall within at least one of the following categories:

1. (1) *Places of lodging.* Except for an establishment located within a *facility* that contains not more than five rooms for rent or hire and that actually is occupied by the proprietor of the establishment as the residence of the proprietor. For purposes of this part, a *facility* is a “*place of lodging*” if it is—
 1. (i) An inn, hotel, or motel; or
 2. (ii) A *facility* that—
 1. (A) Provides guest rooms for sleeping for stays that primarily are short-term in nature (generally 30 days or less) where the occupant does not have the right to return to a specific room or unit after the conclusion of his or her stay; and
 2. (B) Provides guest rooms under conditions and with amenities similar to a hotel, motel, or inn, including the following—
 1. (1) On- or off-site management and reservations service;
 2. (2) Rooms available on a walk-up or call-in basis;
 3. (3) Availability of housekeeping or linen service; and



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4. (4)Acceptance of reservations for a guest room type without guaranteeing a particular unit or room until check-in, and without a prior lease or security deposit.

Resort condominiums are considered to be public lodging establishments pursuant to Section 509.242, F.S.;

- a. **Resort Condominium. (Section 509.242, F.S.).** A *resort condominium* is any unit or group of units in a condominium, cooperative, or time-share plan which is rented more than three times a calendar year for periods of less than 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented for periods of less than 30 days or one calendar month, whichever is less (see also, *Places of Lodging*).

2023 FBC, Accessibility - 206.2.3 & 224 New Multi-Story Buildings and Facilities require Vertical Accessibility to be provided. The owners attempted to submit a waiver through the Building Commission but were told they would be rejected. There are a number of these old cottage developments that are being rebuilt, two others went through the waiver process but were both denied.

During the review process the owners were provided with and refused the option to remove the ability to transient rent these structures in their owner's association documents and Sanibel zoning ability to rent for less than one month. Based on the transient nature of these rental units not owner occupied, the structures were deemed to be R-1 transient occupancy per Section 310.3.

The City of Sanibel review of the permits located at 2907 West Gulf Drive follows the 2023 Florida Building Codes. The structures could be combined or linked by an upper-level walkway which connects the units thus requiring only 1 elevator/lift and minimizing the required accessibility features.

The proposed developer units are transient rentals therefore the petitioner request should be denied.



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Please contact me If additional information is required

ISSUE BY: Craig Mole'
Building Official, Craig Mole'

ISSUE DATE 12-29-2025