

CITY OF SANIBEL
DRAFT PLANNING COMMISSION RESOLUTION 25-09

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANIBEL; RELATING TO A VARIANCE (APPLICATION NO. VAR-2025-000256) RELATIVE TO SECTION 86-163, MAXIMUM NUMBER OF DWELLING UNITS, SECTION 86-165, LIMITATION ON SIDE YARD SETBACKS AND HEIGHT OF STRUCTURES, SECTION 122-48, LOCATION AND SIZE OF REQUIRED VEGETATION BUFFERS, SECTION 122-49, TYPES, VARIETIES, AND NUMBERS OF PLANTS REQUIRED, SECTION 126-494, REQUIRED CONDITIONS (SIDE AND REAR YARD SETBACKS), AND SECTION 126-1404, DRIVEWAYS AND SERVICE AISLES (WIDTH), OF THE LAND DEVELOPMENT CODE TO ALLOW FOR REDEVELOPMENT OF MULTI-FAMILY HOUSING (15 UNITS) DEDICATED TO THE BELOW MARKET RATE HOUSING RENTAL PROGRAM, ON PROPERTY OWNED BY COMMUNITY HOUSING & RESOURCES, INC., AND LOCATED AT 1517 PERIWINKLE WAY, TAX PARCEL (STRAP) NO. 30-46-23-T1-00004.0080, FILED PURSUANT TO SECTION 82-138 OF THE LAND DEVELOPMENT CODE; MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 82-138 provides for the application for a variance; and Section 82-144 of the Land Development Code provides that the Planning Commission may grant variances necessary to accommodate below market rate housing development; and

WHEREAS, Community Housing & Resources, Inc., owners of the property located at 1517 Periwinkle Way, has authorized Rachel Bielert, RLBCM, LLC, to submit Application No. VAR-2025-000256 to allow for redevelopment of multi-family housing (15 units) dedicated to the Below Market Rate Housing Rental Program; and

WHEREAS, the applicant has requested approval of Application No. VAR-2025-000256 for the property located at 1517 Periwinkle Way; and

WHEREAS, a duly noticed public hearing of the application was held on April 22, 2025; and

WHEREAS, after providing the applicant, staff, and the public an opportunity to present testimony and evidence, and having reviewed the record, the Planning Commission finds that the variance application does / does not meet the seven variance criteria required by LDC Section 82-140 and 82-141.

NOW, THEREFORE, BE IT RESOLVED, THE PLANNING COMMISSION OF THE CITY OF SANIBEL HEREBY:

SECTION 1. Approves / Denies Variance Application VAR-2025-000256 to allow for redevelopment of multi-family housing (15 units) dedicated to the Below Market Rate Housing Rental Program located at 1517 Periwinkle Way (tax parcel STRAP no. 30-46-23-T1-00004.0080) and owned by Community Housing & Resources, Inc. with the approval / denial of the following variances from the requirements of the Land Development Code:

1. Sec. 86-163. – Maximum number of dwelling units, to allow 15 units in one building instead of 12 units in one building.

2. Sec. 86-165. – Limitation on side yard setbacks and height of structures, to allow an angle of light encroachment on the west side of the property adjacent to the parking lot behind Fish House Restaurant.
3. Sec. 122-48. – Location and size of required vegetation buffers, to accept buffer widths less than the required 15 feet, proportional to variance requests from minimum setbacks.
4. Sec. 122-49. – Types, varieties and numbers of plants required, to accept fewer than the required plants proportional to the requested variance for reduced buffer width.
5. Sec. 126-494. – Required conditions, Subsection (d), side and rear yard setback; to allow a side setback of 4.7 feet from the east property line for ten (10) 90-degree off-street parking spaces instead of 15 feet, a side setback of 1.6 feet from the north property line to accommodate shared trash and recycling facilities with 7 Eleven, and a side setback of 6.7 feet from the west property line for balconies that serve both as ancillary habitable floor space and a serviceable location for condensing units.
6. Sec. 126-1404. – Driveways and service aisles, Subsection (a)(3), to allow a minimum entrance driveway width of 20 feet instead of 22 feet.

SECTION 2. (if approved) Approval of this Variance Petition is pursuant to the application and attachments included with the item, and subject to the following condition(s) contained in the April 22, 2025, staff report:

1. The proposed scope of work is contingent upon City Council approval of an application to increase density for below market rate housing (CUP-2025-000255).
2. An as-built survey is required to verify conformance with the approved site plan.
3. Pursuant to Section 126-651. – Preservation and enhancement of resources, development shall not take place within the Interior Wetlands Conservation District. The portion of the property within the Interior Wetlands Conservation District shall be preserved by means of a conservation easement or through dedication of such land areas to the city or to a nonprofit conservation entity to manage, or other means, to provide the continued maintenance of conservation lands. Any easement shall be recorded in the official records of the Lee County Clerk of Courts.
4. A signed agreement for the use of shared trash and recycling facilities located on the subject property to the property owner of 1521 Periwinkle Way (Southland Corporation) shall be recorded in the official records of the Lee County Clerk of Courts prior to issuance of a Certificate of Occupancy. The City of Sanibel shall be notified no less than sixty (60) days prior to termination of this agreement.
5. Bike parking facilities for no less than 15 bikes shall be installed and maintained in conformance with all applicable development standards (i.e. setbacks, developed area, coverage).
6. Obtain all necessary building, development, and vegetation permits prior to commencement and within twelve (12) months from the effective date of this resolution.

SECTION 2. (if denied) Denial of this Variance Petition is pursuant to failure to meet the following criteria required by LDC Section 82-140:

This resolution will take effect immediately upon adoption.

EXPIRATION OF PLANNING COMMISSION ACTION: In accordance with Land Development Code Section 82-424(f) Action on Application. When a development order is approved with conditions imposed thereon, such conditions shall be satisfied within the time limit specified in the development order issued by the Planning Commission. When such conditions specify requirements to be completed before a development permit is issued, and no particular time limit is specified for satisfaction of the conditions, such conditions must be satisfied within six months after issuance of the development order. Failure to satisfy a condition imposed upon the approval of a development permit, within the time limit specified therefor, or such extended time period as the Planning Commission may approve upon timely application of the permittee, shall cause the development order approving the development permit to be null and void and of no further force or effect.

EFFECTIVE DATE OF PLANNING COMMISSION ACTION: **Development Permit:** In accordance with Land Development Code Section 82-97. All actions of the Planning Commission, including those which constitute final decisions, shall be effective upon the date of filing of the adopted Resolution with the City Manager, or at a later date if provided in the Resolution. However, permits authorized by final decisions shall not be issued until one of the following has occurred: 1) The time for filing an appeal to City Council has elapsed; 2) The applicant and all other persons having appeal rights have filed a written waiver of appeal rights; or 3) If an appeal has been timely filed, the City Council has finally disposed of the matter.

RIGHT TO APPEAL PLANNING COMMISSION ACTION: In accordance with Land Development Code Section 82-98. Appeals. The applicant is hereby advised that the following persons have the right to appeal a final decision of the Planning Commission adverse to their interests: 1) The applicant; 2) The owner of the property proposed for development; 3) The developer of the property proposed for development; and 4) Any other person residing upon, or owning property within the City, or owning or operating a business within the City, who participated by written comment before or at the Planning Commission hearing or who participated in person or through an authorized agent at the Planning Commission hearing. The appeal shall be filed within 15 days after the date that the Planning Commission decision was filed. The appeal shall be filed with the City manager, and the filing fee shall be paid as a prerequisite to filing.

DISCLAIMER & PERMIT CONDITION (APPLICABLE ONLY IF FEDERAL OR STATE PERMITS ARE REQUIRED): Issuance of a development permit by the City does not create any right to obtain a permit from a State or Federal agency and does not create any liability on the part of the City for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a State or Federal agency or undertakes actions that result in a violation of State or Federal law. If applicable, all other State or Federal permits must be obtained before commencement of the project.

PASSED IN OPEN AND REGULAR SESSION OF THE PLANNING COMMISSION OF THE CITY OF SANIBEL, FLORIDA, THIS 22ND DAY OF APRIL 2025.

Attest:

Scotty Lynn Kelly, City Clerk

Paul Nichols, Chair

Approved as to form and legality:

John D. Agnew, City Attorney

Date filed with City Clerk: _____

Vote of Commission Members:

Nichols	_____
Steiner	_____
Burns	_____
Colter	_____
Schopp	_____
Sergeant	_____
Welch	_____