

**CITY OF SANIBEL
ORDINANCE 25-008**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, APPROVING AN INCREASE IN RESIDENTIAL DEVELOPMENT DENSITY AS SET FORTH AND APPROVED IN PLANNING COMMISSION RESOLUTION 25-06, CONDITIONAL USE PETITION APPLICATION CUP-2025-000255, PURSUANT TO SECTION 82-204 OF THE CODE OF ORDINANCES, ALLOWING INCREASED DENSITY FOR BELOW MARKET RATE HOUSING; 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 NO. 30-46-23-T1-00004.0080; INCORPORATING AND APPROVING PLANNING COMMISSION RESOLUTION 25-06; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning Commission held a legally and properly advertised public hearing on April 8, 2025, on this proposed conditional use, allowing for increased density for below market rate housing; and

WHEREAS, the Planning Commission found that the requirements for conditional uses, set forth in Section 126-82 and Section 126-85 of the Code of Ordinances had been met and that the application should therefore be recommended to City Council for approval; and

WHEREAS, the Sanibel Planning Commission adopted Planning Commission Resolution 25-06 by a vote of 5-0-1, which recommends approval of this application for a conditional use; and

WHEREAS, Section 3.10.2 of the Sanibel City Charter provides that a majority of the qualified City electors voting at the next general election or a special election called for such purpose shall approve an action to increase the residential development density as established in the Sanibel Plan as constituted on May 4, 2004, but provides an exception from such requirement where the purpose of the density increase is "to provide incentives for the Below Market Rate Housing Program"; and

WHEREAS, The City Council finds that the proposed increase in residential density approved by this Ordinance is to provide incentives for the Below Market Rate Housing Program; and

WHEREAS, pursuant to Land Development Code Section 82-32, Actions Requiring Supermajority Vote of Council, action to increase residential development intensity as established in the Sanibel Plan may be taken by the City only by ordinance adopted by four-fifths of the membership of council where the full membership is voting or unanimous vote of the voting members where less than the full membership is voting; and

WHEREAS, the City Council concurs by unanimous vote with the Planning Commission's finding that the application is consistent with the Sanibel Plan – Plan for Housing and Plan for Development Intensity – and demonstrates compliance with the standards and regulations of the Land Development Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA:

SECTION 1. The recitals above are adopted as true and correct findings of City Council and made a part hereof.

SECTION 2. The City Council hereby approves and confirms an increase in residential development density from 3 units to 15 units for the parcel of land located at 1517 Periwinkle Way, Tax Parcel No. 30-46-23-T1-00004.0080, with the conditions approved in Planning Commission Resolution 25-06. Such Planning Commission Resolution provides for a conditional use approval of a 15-unit multi-family housing development dedicated to Below Market Rate Housing. Planning Commission Resolution 25-06 is attached hereto as Exhibit "A" and is hereby incorporated herein and approved as part of this Ordinance.

SECTION 3. Codification. The City Manager is hereby authorized and directed to indicate these amendments in future City Code publications.

SECTION 4. Conflict. All ordinances and parts of ordinances in conflict herewith shall be and the same hereby repealed. If any part of this ordinance conflicts with any other part, it shall be severed, and the remainder shall have full force and effect and be liberally construed.

SECTION 5. Severance. If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.

SECTION 6. Effective date. This Ordinance shall be effective immediately upon adoption.

FIRST READING THE 17TH DAY OF APRIL 2025.

ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA THE 6TH DAY OF MAY 2025.

Attest:

Scotty Lynn Kelly, City Clerk

Mike Miller, Mayor

Approved as to form and legality:

John D. Agnew, City Attorney

Date filed with City Clerk: _____

Vote of Council Members:

Miller _____
Smith _____
DeBruce _____
Henshaw _____
Johnson _____

First Reading: April 17, 2025
Publication Date: April 25, 2025
Second Reading: May 6, 2025

EXHIBIT A OF ORDINANCE

Agenda Item 7.c.
Meeting of April 8, 2025

CITY OF SANIBEL PLANNING COMMISSION RESOLUTION 25-06

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANIBEL, FLORIDA, RECOMMENDING TO CITY COUNCIL APPROVAL OF CONDITIONAL USE PETITION APPLICATION CUP-2025-000255, PURSUANT TO SECTION 82-204 OF THE CODE OF ORDINANCES, TO ALLOW INCREASED DENSITY FOR BELOW MARKET RATE HOUSING; 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 NO. 30-46-23-T1-00004.0080; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 82-204 of the Land Development Code details the application and hearing process for a conditional use; and

WHEREAS, Community Housing & Resources, Inc., is the owner of the property located at 1517 Periwinkle Way; and

WHEREAS, the owner of the property has authorized Rachel Bielert, RLBCM, LLC, to act as applicant and file this petition; and

WHEREAS, the applicant has requested approval of the application to allow for redevelopment of multi-family housing (15 units) dedicated to the Below Market Rate Housing Rental Program; and

WHEREAS, a duly noticed public hearing of the application was held on April 8, 2025; and

WHEREAS, after providing the applicant, staff, and the public an opportunity to present testimony and evidence, the Planning Commission finds that the requirements for conditional uses, set forth in Section 82-204 of the Code of Ordinances have been met and that the application should therefore be recommended to City Council for approval.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANIBEL, FLORIDA that Conditional Use Petition Application CUP-2025-000255 to allow for redevelopment of multi-family housing (15 units) dedicated to the Below Market Rate Housing Rental Program on property located at 1517 Periwinkle Way, tax parcel No. 30-46-23-T1-00004.0080, is hereby recommended to City Council for approval.

This recommendation for approval of this Conditional Use Petition Application is pursuant to the application and attachments included with these items, and subject to the following condition(s) contained in the April 8, 2025, staff report:

- Staff finds the proposed conditional use in compliance with general and specific requirements.
- Conditions are recommended to implement the proposed plans, to facilitate shared facilities between adjacent development, and to preserve and protect lands in the Interior Wetlands Conservation District and are as follows:
 1. All dwelling units shall be dedicated to the Below Market Rate Housing rental program indefinitely and in conformance with *Chapter 102, Article II. – Below Market Rate Housing*.

2. The attached site plan and proposed scope of work are not considered approved until variance application VAR-2025-000256 is approved by the Planning Commission.
3. Upon approval of a development permit, the developer shall execute and record in the public records of the county a declaration that the residential density allocation for the property has been fully executed in conformance with Sec. 86-113.

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: 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 8TH 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: 4/10/25

Vote of Commission Members:

Nichols	<u>Aye</u>
Steiner	<u>Abstain</u>
Burns	<u>Aye</u>
Colter	<u>Absent</u>
Schopp	<u>Aye</u>
Sergeant	<u>Aye</u>
Welch	<u>Aye</u>