

RESOLUTION 18-67

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING A SPECIAL PERMIT FOR ENCROACHMENT INTO THE FIFTEEN (15) FOOT WIDE RIPARIAN SIDE SETBACKS; MAKING FINDINGS; PROVIDING FOR RECITALS AND DEFINITIONS; APPROVING THE SPECIAL PERMIT FOR THE MAXIME CLUB OF MARCO ISLAND, A CONDOMINIUM, ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF RECORDED IN OFFICIAL RECORDS BOOK 2283, PAGE 1432, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA (907 PANAMA COURT, MARCO ISLAND); PROVIDING FOR CONDITIONS OF APPROVAL AND FAILURE TO COMPLY WITH THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 54-115 of the Code of Ordinances of the City of Marco Island, Florida, provides standards and regulations for the review and approval of special permits (similar to a variance) to encroach into the riparian side setback of waterfront properties; and

WHEREAS, the Maxime Club Association has submitted a petition for approval to encroach up to ten (10) into the fifteen (15) foot wide riparian side setback on the Northern boundary riparian boundary of the Maxime Club Condominium; and

WHEREAS, the Maxime Club Association has submitted Petition VP-17-005368 for the Subject Property located at **907 Panama Court, Marco Island, Florida 34145**; and Maxime Club of Marco Island, a Condominium, as described in the Declaration of Condominium of Maxime Club of Marco Island, a Condominium, recorded in Official Records Book 2283 and Page 1432, Public Records of Collier County, Florida,; and

WHEREAS, pursuant to the Joint Agreement Regarding Riparian Setbacks entered into by the Maxime Club Association and the Crows Nest Condominium Association, Inc., on April 16, 2018., the Crows Nest Condominium Association has agreed to the Maxime Club Association's encroachment into the Maxime Club Condominium's ten (10) foot encroachment into the riparian side setback for the purposes of the installation, maintenance, repair, of piers, docks, or other improvements and replacement of pilings and docking, all as more fully described in the Joint Agreement; and

WHEREAS, the Maxime Club Association is requesting a special permit for each condominium to encroach ten (10) feet into their respective and abutting fifteen (15) foot wide riparian side setbacks, all pursuant to Section 54-115 of the Code of Ordinances of the City of Marco Island, Florida; and

WHEREAS, the Maxime Club Association have satisfied each of the applicable criteria in Section 54-115(f) of the Code of Ordinances of the City of Marco Island, Florida, for the granting of a special permit for encroachment into the riparian side setback; and

WHEREAS, the City's Planning Board has reviewed and recommended approval of Petition VP-17-005368, the petition for the granting of the special permit for encroachment into the Maxime Club Condominium's Northern riparian side setback; and

WHEREAS, City Council does hereby approve Petition VP-17-005368, subject to the conditions of approval as set forth in this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA:

SECTION 1. Recitals; Definitions.

(a) That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Resolution.

(b) That as used herein, unless the context hereof, or City Code of Ordinances, requires to the contrary, the following terms will be defined as set forth below:

(1) "City" means the City of Marco Island, a Florida Municipal Corporation.

(2) "Development" is defined as set forth in Section 163.3164, Florida Statutes.

(3) "Development Permit" is defined as set forth in Section 163.3164, Florida Statutes.

(4) "Land Development Code" or "LDC" means the Land Development Code which consists of Chapter 30, Code of Ordinances of the City of Marco Island.

(5) "Maxime Club Association" means the Maxime Club of Marco Island Condominium Association, Inc., a Florida Not-for-Profit Corporation, its successors and assigns, as the legal entity having jurisdictional control over the common elements and limited common elements of the Subject Property and the Maxime Club Condominium; and

(6) "Maxime Club Condominium" is the condominium described in the Declaration of Condominium of Maxime Club of Marco Island, a Condominium, according to the Declaration of Condominium recorded on February 14, 1997, in Official Records Book 2283 and Page 1432, Public Records of Collier County, Florida, all as amended from time to time.

(7) "Subject Property" means the following described parcel of land, lying, situate and being in the State of Florida, County of Collier, City of Marco Island, to-wit:

The dock limited common elements and areas in which the condominium may have riparian rights contiguous with and adjacent to the condominium property described in Article 5 of, and in, the Declaration of Condominium of Maxime Club of Marco Island, a Condominium, according to the Declaration of Condominium recorded on February 14, 1997, in Official Records Book 2283 and Page 1432, Public Records of Collier County, Florida, all as amended from time to time.

(Said Legal Description has neither been reviewed nor examined by the City, Weiss Serota Helfman Cole & Bierman, P.L., Alan Gabriel, Esq., or Paul R. Gougelman, Esq., but is excerpted from the Declaration of Condominiums, as recorded in Official Records Book 2283, Page 1432, Public Records of Collier County, Florida..)

SECTION 2. Adoption. The following special permit for the Subject Property is hereby approved:

(a) A special permit is hereby granted to the Maxime Club Association for a ten (10) foot wide encroachment into the fifteen (15) foot wide riparian side setback of the Maxime Club Condominium. The ten (10) foot wide encroachment shall be on the Southernmost ten (10) foot wide portion of the Maxime Club Condominium's fifteen (15) foot wide Northern riparian side setback.

(b) The grant of the special permit in sub-section (a) is approved subject to the following conditions of approval set forth in Section 3. of this Resolution.:

SECTION 3. Conditions of Approval. The Site Development Plan is approved subject to the following conditions of approval:

(a) The Maxime Club Association is required to re-submit construction documents to the City's Building Department for review and approval prior to the commencement of Development within the area covered by the special permit for the Subject Property; and

(b) The Maxime Club Association is responsible for compliance with any private deed restriction approvals with Marco Island Civic Association; and.

(c) That issuance of this approval by the City does not in any way create any right on the part of the Maxime Club Association or the unit owners within the Maxime Club Condominium 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 approval if the said unit owner or Maxime Club Association fails to obtain the required approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in the violation of state or federal law. All applicable state and federal permits must be obtained before

commencement of the Development on the respective portions of the Subject Property. This condition is included pursuant to Section 166.033, Florida Statutes, as amended; and.

(d) Any encroachments into any riparian setback by neighboring properties must apply for and receive approval of the City of Marco Island.

SECTION 4. Failure to Adhere to Resolution. That failure to adhere to the approval terms and conditions contained in this Resolution shall be considered a violation of this Resolution and the City Code, and persons found violating this Resolution shall be subject to the penalties prescribed by the City Code, including but not limited to the revocation of any of the approval(s) granted in this Resolution and any other approvals conditioned on this approval. The Maxime Club Association understands and acknowledges that it must comply with all other applicable requirements of the City Code before it or its unit owners may commence construction or operation of Development within the riparian side setback, and that the foregoing approval in this Resolution may be revoked by the City at any time upon a determination that the Owner/Developer is in non-compliance with the City Code.

SECTION 4. Effective Date. This Resolution shall be effective immediately upon adoption by the City Council.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 4th day of September 2018.

ATTEST:



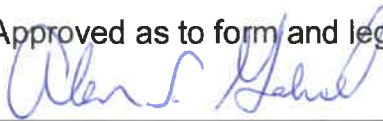
Laura M. Litzan, City Clerk

CITY OF MARCO ISLAND, FLORIDA

By: 

Jared Grifoni, Chairman

Approved as to form and legal sufficiency:



Alan L. Gabriel, City Attorney