

**RESOLUTION 18-77**

**A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA APPROVING A SITE DEVELOPMENT PLAN FOR ABC LIQUORS, INC., ON LOT 7, BLOCK 778, A REPLAT OF A PORTION OF MARCO BEACH UNIT FOUR, ACCORDING TO THE PLAT THEROF AS RECORDED IN PLAT BOOK 12, PAGES 19 THROUGH 21, INCLUSIVE, PUBLIC RECORDS OF COLLIER COUNTY, LOCATED AT 725 BALD EAGLE DR., MARCO ISLAND FLORIDA 34145 (SDP-18-000561); MAKING FINDINGS; APPROVING THE SITE DEVELOPMENT PLAN; REQUIRING THE OBTAINING ALL FEDERAL AND STATE PERMITS BEFORE COMMENCING DEVELOPMENT; PROVIDING FOR FAILURE TO COMPLY WITH APPROVAL; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Article IX, Site Development and Site Development Plan Standards of the Marco Island Land Development Code provides standards and regulations for the review and approval of site improvement plans; and

**WHEREAS**, ABC Liquors, Inc., a Florida Corporation, submitted a Site Development Plan for the Development of a commercial structure with an area of approximately 0.86 acres at 725 Bald Eagle Drive, Marco Island, Florida 34145; and

**WHEREAS**, the City of Marco Island staff have reviewed and recommend approval of SDP-18-000561; and

**WHEREAS**, the City's Planning Board reviewed and recommended approval of the Site Development Plan on May 4, 2018; and

**WHEREAS**, the City Council does hereby approve the Site Development Plan SDP-18-000561, subject to the conditions of approval 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) "Owner/Developer" means ABC Liquors, Inc., a Florida Corporation, its successors and assigns, as owners or developers of the Subject Property.

(6) "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:

Lot 7, Block 778, a Replat of a portion of Marco Beach Unit Four, according to the plat thereof, as recorded in Plat Book 12, Pages 19 through 21, inclusive, Public Records of Collier County, Florida.

(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 extracted from the most recent deed of conveyance in Official Records Book 5437, Page 2647, Public Records of Collier county, Florida.)

(7) "Site Development Plan" means the 30 page document, including:

(A) The twenty-seven (27) page Site Plan Documents entitled Site Development Plan for ABC Liquors, Inc. prepared by KPMFranklin Engineers-Planners-Surveyors of Orlando, FL, prepared under Job No. 16-1116 dated January, 2018, including the Cover Sheet, Sheet C2.0 – Notes and Legends, Sheet C3.0 – Boundary and Topographical Data Plan, Sheet C4.0 – Demolition Plan, Sheet C5.0 – Geometry Plan, Sheet C6.0 – Utilities and Drainage Plan, Sheet C7.0 – Paving and Grading Plan, Sheet C8.0 – Signing and Markings Plan, Sheets C9.0, C9.1, C9.2, C9.3, and C9.4 – Paving and Drainage Details, Sheet C9.5 – Cross Sections, Sheets C10.0, C10.1, and C10.2 – Utilities Details; Sheets C11.0, C11.1, C11.2, and C11.3 – Stormwater Pollution Prevention Notes, Sheets C12.0 and C12.1 – Maintenance of Traffic (MOT) Details, and Sheet EXH Dumpster Truck Exhibit, Sheet L1 (dated September,

2018), and two unnumbered, undated drawings of the illuminated monument sign and internally illuminated wall sign, all with no date of revision; and

(B) The one page boundary and topographic survey for William Mott Land Surveying, Inc. of Melbourne, FL, prepared under Project No. 216-0248 dated December 19, 2016, without revision; and

(C) The one page Exterior Elevations drawing prepared by Design Construction International LLC of Altamonte Springs, FL, under Job No. 144 dated 6/18/17 with no date of revision as to Sheet A-2; and

(D) The one page Site Lighting Plan prepared by Alex Piper, P.E. of Longwood, FL, dated June 18, 2017 as to Sheet SL-1, with no date of revision.

All of the foregoing approved documents are on file in the City's Department of Growth Management.

**SECTION 2. Adoption.** The Owner/Developer's Site Development Plan for the Subject Property is hereby approved. The Site Development Plan is approved subject to the following condition of approval:

The Owner/Developer is advised that burrowing owls are found on Marco Island and are classified as a Florida threatened species by the Florida Fish and Wildlife Conservation Commission ("FWC"). Rule 68A-27.003, Fla.Admin.Code; §§18-145, City Code of Ordinances. "[N]o active or inactive owl . . . burrow, or nests of any other listed species, may be taken without proper state permits issued by the FWC. . . If state permit(s) are issued, they shall be posted on site during all phases of the construction. . . . During the Burrowing Owl nesting season as designated by FWC (February 15 through July 10) no city building permits will be issued for applicants to take an owl burrow, unless the FWC has issued permits to take the owl burrow(s) during nesting season or permits have been issued to take the owl burrow(s) after nesting season and the construction can commence with a protection zone in place. . . ." §§18-143 and 18-145, Marco Island City Code of Ordinances.

Prior to submission of a building permit application, the Owner/Developer must survey the Subject Property for Burrowing Owls and their burrows. If burrowing owls or burrowing owl burrows are found on the Subject Property, the FWC must be contacted for management guidelines and issuance of any required permits to take the owls or their burrows. If burrowing owls or burrowing owl burrows are found on the Subject Property, the the Owner/Developer must include the survey with the building permit application and indicate that the appropriate state permit is being pursued for taking, removal, relocation or protection of the listed species onsite. If burrowing owls or active owl burrows are found on the Subject Property, a management plan for a protection zone during construction shall be submitted for review and approval by the Director of Community Affairs for the management of on-site habitat and wildlife, including measures for protection and/or relocation of the species, if permitted. Such plans shall comply with current federal, state and local policies. The City may consider and utilize recommendations and letters of technical assistance of the FWC, and recommendations

and guidelines of the USFWS, in issuing developmental orders on property containing wildlife species of special status.

City Staff will require an updated landscape plan prior to issuance of building permits. The existing landscape plan includes an erroneous count for trees, although the total number of code compliant trees are correct on the visual representation.

**SECTION 3. Failure to Obtain Other Permits.** That issuance of this approval by the City does not in any way create any right on the part of the Owner/Developer 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 Owner/Developer fails to obtain the requisite 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. This condition is included pursuant to Section 166.033, Florida Statutes, as amended.

**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 Owner/Developer understands and acknowledges that it must comply with all other applicable requirements of the City Code before it may commence construction or operation, 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 5. Effective Date.** That this Resolution shall take effect immediately upon adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 1<sup>st</sup> day of October 2018.

**ATTEST:**

  
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Laura M. Litzan, City Clerk

**CITY OF MARCO ISLAND, FLORIDA**

By:   
\_\_\_\_\_  
Jared Grifoni, Chairman

Approved as to form and legal sufficiency:

  
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Alan L. Gabriel, City Attorney