

ORDINANCE 18-02

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, REZONING REAL PROPERTY; MAKING FINDINGS; ADOPTING ORDINANCE RECITALS AND DEFINITIONS; AMENDING THE OFFICIAL ZONING ATLAS AND REZONING 7.35 +/- ACRES FROM "PLANNED UNIT DEVELOPMENT (PUD)" TO "COMMUNITY FACILITIES (CF)" ON PROPERTY LOCATED IN LOTS 1, 2, 3, AND 4, BLOCK 796, SECOND REPLAT OF A PORTION OF MARCO BEACH UNIT 6, AS RECORDED IN PLAT BOOK 12, PAGE 38, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA, AND LOTS 1, 2, 3, 4, 5, 9, 10, AND 11, BLOCK 798, REPLAT OF TRACT "A" OF MARCO BEACH UNIT 6, AS RECORDED IN PLAT BOOK 12, PAGES 53-54, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA, AND A VACATED ALLEYWAY AS DESCRIBED IN OFFICIAL RECORDS BOOK 2871, PAGE 2380, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA, AND A VACATED PORTION OF WEST ELKCAM CIRCLE, AS DESCRIBED IN OFFICIAL RECORDS BOOK 4551, PAGE 3327, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA, A/K/A AS VETERANS COMMUNITY PARK, AT 901 PARK AVENUE; PROVIDING THAT APPROVAL DOES NOT CREATE A VESTED RIGHT; PROVIDING FOR FAILURE TO COMPLY WITH THIS ORDINANCE; PROVIDING FOR INTERPRETATION, AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 30-62 of the Land Development Code ("LDC") provides for review and approval of changes to the official zoning map; and

WHEREAS, the Owner/Developer, has submitted an application for rezoning of the Subject Property, a 7.35-acre +/- parcel of land, from PUD, Planned Unit Development, to CF, Community Facilities, for a public park commonly known as Veterans Community Park located at 901 Park Avenue: and

WHEREAS, the rezoning application has been reviewed pursuant to the standards set forth at Section 30-62 of the LDC; and

WHEREAS, Objective 1.1 of the Future Land Use Element of the Marco Island Comprehensive Plan states that:

Objective 1.1: New, revised, or redeveloped uses of land shall be consistent with the designations shown on the Future Land Use Map (FLUM) presented in Map 2A. The Future Land Use Map series, including Map 1, Map 2, and Map 2A, and companion Future Land Use designations are hereby adopted as amended (2008) and revised (2017) and

shall be binding on all development orders approved by the City of Marco Island. The Future Land Use Map series, including Maps 1, Map 2, and Map 2A, is a visual representation of land use designations that are planned to reasonably occur within the prescribed short and long-range planning periods, between 2008 and 2013, and between 2013 and 2018, respectively, and in the case of Map 2A, for the current and future periods.

WHEREAS, the future land use map, Map 2A, depicts the Subject Property land use designated as Community Facilities; and

WHEREAS, Policy 1.1.1 of the Future Land Use Element of the Marco Island Comprehensive Plan states that:

Policy 1.1.1: The Marco Island Future Land Use Map (FLUM) series, including Maps 1, 2, and 2A, attached to this plan, incorporates the following Land Use designations, residential densities, and density incentive programs as allocated on Table 2.1. The current future land use designations are as designated on Map 2A.

WHEREAS, Table 2.1 depicts park use as a permitted zoning use in the Community Facilities land use planning category; and

WHEREAS, Policy 1.3.1 of the Future Land Use Element of the Marco Island Comprehensive Plan states that:

Policy 1.3.1: Any request to change the Future Land Use Map shall be thoroughly reviewed, and denied if such change would negatively impact hurricane evacuation plans, routes, or shelter facilities.

Measurement: Number of desired Map changes denied due to hurricane evacuation factors.

WHEREAS, changing the zoning from a use that permits residential and commercial development to a park use will have a favorable impact on hurricane evacuation since there will be fewer individuals to evacuate; and

WHEREAS, Objective 1.6 of the Future Land Use Element of the Marco Island Comprehensive Plan states that:

Objective 1.6: All future development orders shall be issued only upon a finding that adequate public facilities will be available at the adopted LOS standard concurrent with project development.

WHEREAS, a review of the transportation and other public facilities in the Town Center area indicates that transportation and other public facilities will be available for the Subject Property at the adopted LOS; and

WHEREAS, Objective 1.7 of the Future Land Use Element of the Marco Island Comprehensive Plan states that:

Objective 1.7: The City will enforce existing and future Land Development regulations to eliminate and/or reduce uses of land inconsistent with the Future Land Use Map and the community's character.

WHEREAS, rezoning of the Subject Property will bring the zoning designation into conformance with the newly established future land use map designation of the Subject Property; and

WHEREAS, Objective 1.8 of the Future Land Use Element of the Marco Island Comprehensive Plan states that:

Objective 1.8: The City shall coordinate future transportation, park, and infrastructure improvements to ensure compatibility and appropriateness of adjacent land uses and to promote the Island's small-town character.

WHEREAS, the Planning Board, sitting as the local Planning Agency, has determined that the use of Subject Property as a community park will not adversely affect transportation and infrastructure improvements, because the amount of peak hour trips and infrastructure needed will be less than for the PUD; and

WHEREAS, Policy 1.2.5 of the Parks and Open Space Element of the Marco Comprehensive Plan states that:

Policy 1.2.5: The City of Marco Island will seek to adequately maintain City neighborhood, community, and regional parks, as shown on the Marco Island City Parks Map 14, attached to this plan, and incorporated by this reference. In addition, Map 14 will also depict private parks.

WHEREAS, the Marco Island City Parks map, Map 14, depicts the Subject Property as a community park; and

WHEREAS, pursuant to Section 30-62(6)a. of the LDC and Sections 163.3174(4)(c) and 163.3194(2), Florida Statutes, the Planning Board, acting as the Local Planning Agency, has determined that the proposed rezoning is consistent with the goals, objectives, and policies and future land use map of the City's Comprehensive Plan and in particular Parks and Open Space Element Policy 1.2.5, and Future Land Use Element Objectives 1.1, 1.6, 1.7, 1.8 and Policies 1.1.1 and 1.3.1; and

WHEREAS, the Planning Board has examined the existing land use pattern and whether the rezoning will create an isolated district unrelated to adjacent and nearby district; and

WHEREAS, pursuant to Section 30-62(6)b. and c. of the LDC, the Planning Board has found that the use is compatible with existing and surrounding uses and will provide a community park for the Town Center neighborhood of the City; and

WHEREAS, pursuant to Section 30-62(6)d. of the LDC, the Planning Board has determined that the district boundaries are logically drawn in relation to existing conditions given that the district boundary consists of the boundaries of the Veterans Community Park property; and

WHEREAS, pursuant to Section 30-62(6)e. and f. of the LDC, the Planning Board has determined that the existing PUD zoning was assigned prior to purchase of the Subject Property by the City for Park purposes, and the rezoning is consistent with the existing and planned use of the Subject Property which will not have an adverse effect on living conditions within the community; and

WHEREAS, pursuant to Section 30-62(6)g. of the LDC, the Planning Board has determined that proposed use of the Subject Property for park purposes and CF zoning should reduce traffic congestion within this area of the community; and

WHEREAS, pursuant to Section 30-62(6)h. of the LDC, the Planning Board has determined that the open space and park use of the Subject Property should reduce drainage demands from what would have been required as a planned unit development; and

WHEREAS, pursuant to Section 30-62(6)i. of the LDC, the Planning Board has ascertained that the rezoning of the Subject Property to CF for use as a public park should assist in conserving and providing light and air in this area of the community; and

WHEREAS, pursuant to Section 30-62(6)j. and k. of the LDC, the Planning Board has found no evidence that the rezoning of the Subject Property for park use, CF zoning, will adversely affect property values in this area of the community and should provide no deterrent on the Development of adjacent properties; and

WHEREAS, pursuant to Section 30-62(6)l. and n. of the LDC, the Planning Board has found that the rezoning does not grant a special privilege to the Owner/Developer as contrasted with the public welfare or that the use is out of scale for the neighborhood, given that park use of the Subject Property will promote community aesthetics and provide a community park for the area; and

WHEREAS, pursuant to Section 30-62(6)m. of the LDC, the Planning Board has determined that there are substantial reasons why the Subject Property should not be used for PUD purposes, given that public funds were used to purchase the Subject Property for park and conservation purposes; and

WHEREAS, pursuant to Section 30-62(6)o. and p. of the LDC, the Planning Board has determined that there are few, if any, other sites in the community which are adequate for a waterfront park use, and the degree of site alteration is minimal to make the Subject Property useful for park purposes; and

WHEREAS, pursuant to Section 30-62(6)q. of the LDC, the Planning Board has found that the use of the Subject Property will have minimal impact on the availability of adequate public facilities and services consistent with adopted levels of service, especially given that rezoning of the Subject Property will reduce public facility needs from what would have been required for PUD use; and

WHEREAS, pursuant to Section 30-62(6)r. of the LDC, the Planning Board has found that rezoning of the Subject Property to permit park use will promote community aesthetics, thereby promoting the public health, safety, aesthetics, and welfare; and

WHEREAS, the Planning Board held a public hearing on the rezoning application on August 4, 2017, and pursuant to Section 30-62 of the LDC and Section 163.3194, Florida Statutes, recommended approval of the application, finding it consistent with the City's Comprehensive Plan; and

WHEREAS, the City Council has held two properly advertised public hearings pursuant to Section 30-62 of the LDC and Chapter 166, Florida Statutes; and

WHEREAS, the City Council deems it to be in the best interest of the citizens and residents of the City of Marco Island to approve the rezoning of the Subject Property.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, AS FOLLOWS:

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 Ordinance.

(b) As used herein, unless the context or City Code of Ordinances requires to the contrary, the following terms are 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) "LDC" means Chapter 30 of the City Code of Ordinances.

(4) "Owner/Developer" means the City of Marco Island, a Florida Municipal Corporation, its successors and assigns, as owner(s) in fee simple of the Subject Property, or as developer(s) to which Development rights have been assigned.

(5) "Subject Property" is real property situate and lying in the State of Florida, County of Collier, City of Marco Island, to-wit:

Lots 1, 2, 3, and 4, Block 796, Second Replat of a Portion of Marco Beach Unit 6, as recorded in Plat Book 12, Page 38, Public Records of Collier County, Florida, and Lots 1, 2, 3, 4, 5, 9, 10, and 11, Block 798, Replat of Tract "A" of Marco Beach Unit 6, as recorded in Plat Book 12, Pages 53-54, Public Records of Collier County, Florida, and a vacated alleyway as described in Official Records Book 2871, Page 2380, Public Records of Collier County, Florida, and a vacated portion of West Elkcam Circle as described in Official Records Book 4551, Page 3327, Public Records of Collier County, Florida.

The legal description has not been examined by the City of Marco Island or Weiss Serota Helfman Cole & Bierman, P.L.

Section 2. Approval of Rezoning of Subject Property. That the City Council hereby approves the rezoning of the Subject Property from "PUD", Planned Unit Development, to "CF", Community Facilities. The City Manager, or said Manager's designee, is hereby directed to amend the Official Zoning Atlas to reflect this rezoning of the Subject Property.

Section 3. Approval Does Not Create A Vested Right. 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 Comply with Ordinance. That failure to adhere to the approval terms and conditions contained in this Ordinance shall be considered a violation of this Ordinance and the City Code, and persons found violating this Ordinance 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 Ordinance 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 Ordinance 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 Sections 1. and 3. through 6. of this Ordinance shall take effect upon adoption on second reading. Section 2. of this Ordinance shall take effect immediately following Section 2. of Ordinance No. 18-01 (changing the Comprehensive Plan Future Land Use Map designation of the Subject Property from PUD to Communities Facilities) becoming effective. The City Clerk is directed to insert the appropriate Ordinance No. in the foregoing sentence.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this 8th day of January 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

