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RESOLUTION 18-91

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA APPROVING A SITE DEVELOPMENT PLAN FOR MARCO ISLAND ACADEMY, ON REPLAT LOTS 9 & 10, BLOCK 427, MARCO BEACH UNIT 15, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 8, PAGE 45, PUBLIC RECORDS OF COLLIER COUNTY, LOCATED AT 2255 SAN MARCO ROAD, MARCO ISLAND FLORIDA 34145 (SDP-18-004313); 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, Marco Island Academy, a Florida Corporation, submitted a Site Development Plan for the Development of an institutional structure on a lot with an area of approximately 5.88-acres at 2255 San Marco Rd., Marco Island, Florida 34145; and

WHEREAS, pursuant to Section 30-673(1) of the LDC, the Planning Board has reviewed documentation, if any, to evidence ownership and control of the Subject Property and the Development, as well as information regarding easements and related encumbrances, to substantiate the use and permanent maintenance of any required common open space, common facilities, conservation/preservation areas, and other similar common lands in order to ensure the preservation of such lands and facilities; and

WHEREAS, pursuant to Section 30-673(2) of the LDC, the Planning Board has reviewed the Site Development Plan for compliance with all appropriate zoning regulations and the comprehensive plan, ingress and egress to the proposed Development and its proposed improvements, provisions and designs for vehicular and pedestrian safety, separation of vehicular traffic from pedestrian and other traffic, traffic flow and control, traffic calming devices, provision of private and/or public utilities and refuse collection, and access in case of fire, catastrophe or other emergency; and

WHEREAS, pursuant to Section 30-673(3) of the LDC, the Planning Board has reviewed the location and relationship of parking and loading facilities with a goal to complement and optimize traffic conditions on city streets and internal traffic patterns within the proposed Development for vehicular and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, screening and landscaping; and

46 **WHEREAS**, pursuant to Section 30-673(4) of the LDC, the Planning Board has
47 reviewed the adequacy of proposed or required recreational facilities, if any, and open
48 spaces considering the size, location, and development of these areas with regard to
49 effect on adjacent and nearby properties as well as uses within the proposed
50 Development, and the relationship to community-wide open spaces and recreation
51 facilities; and

52
53 **WHEREAS**, pursuant to Section 30-673(5) of the LDC, the Planning Board has
54 reviewed the adequacy of proposed landscape screens and buffers considering
55 preservation of the development's internal land uses as well as compatibility with
56 adjacent land uses; and

57
58 **WHEREAS**, pursuant to Section 30-673(6) of the LDC, the Planning Board has
59 reviewed the water management master plan or stormwater provisions and designs on
60 the property, considering adverse impacts on adjacent and nearby properties and the
61 consequences of such water management master plan or stormwater discharges on
62 overall city drainage capacities within and external to private and public drainage
63 easements and alley and road right-of-way; and

64
65 **WHEREAS**, pursuant to Section 30-673(7) of the LDC, the Planning Board has
66 reviewed signage, if any, proposed for the project for conformity with the LDC; and

67
68 **WHEREAS**, pursuant to Section 30-673(8) of the LDC, the Planning Board has
69 reviewed the architectural design of the building(s) for compliance with applicable LDC
70 requirements; and

71
72 **WHEREAS**, the City of Marco Island staff have reviewed and recommend approval
73 of SDP-18-004313; and

74
75 **WHEREAS**, the City's Planning Board reviewed and recommended approval of
76 the Site Development Plan on November 2, 2018; and

77
78 **WHEREAS**, the City Council does hereby approve the Site Development Plan
79 SDP -18-004313, subject to the conditions of approval set forth in this resolution.

80
81 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY**
82 **OF MARCO ISLAND, FLORIDA:**

83
84 **SECTION 1. Recitals; Definitions.**

85
86 (a) That the foregoing "WHEREAS" clauses are ratified and confirmed
87 as being true and correct and are made a specific part of this Resolution.

88

89 (b) That as used herein, unless the context hereof, or City Code of
90 Ordinances, requires to the contrary, the following terms will be defined as set forth below:
91

92 (1) "City" means the City of Marco Island, a Florida Municipal
93 Corporation.
94

95 (2) "Development" is defined as set forth in Section 163.3164,
96 Florida Statutes.
97

98 (3) "Development Permit" is defined as set forth in Section
99 163.3164, Florida Statutes.
100

101 (4) "Land Development Code" or "LDC" means the Land
102 Development Code which consists of Chapter 30, Code of Ordinances of the City of
103 Marco Island.
104

105 (5) "Owner/Developer" means Marco Island Academy – a Private
106 Charter High School, Inc., a Florida Not-for-Profit Corporation, its successors and
107 assigns, as owners or developers of the Subject Property.
108

109 (6) "Subject Property" means the following described parcel of
110 land, lying, situate and being in the State of Florida, County of Collier, City of Marco
111 Island, to-wit:
112

113 Lot 9 and 10, Block 427, a Replat of a portion of Marco Beach Unit 15,
114 according to the plat thereof, as recorded in Plat Book 8, Page 45, Public
115 Records of Collier County, Florida.
116

117 (Said Legal Description has neither been reviewed nor examined by the
118 City, Weiss Serota Helfman Cole & Bierman, P.L., Alan Gabriel, Esq., or
119 Paul R. Gougelman, Esq.)
120

121 (7) "Site Development Plan" means the 20-page document,
122 including:
123

124 (A) The 15-age site and architectural plans entitled Marco
125 Island Academy prepared by Living Designs Group Florida Architects, Inc. of Lake Worth,
126 FL, and LIS Engineering Land Surveying of Alva, FL, without a job or project number
127 dated October 16, 2018, with last date of revision being October 16, 2018, including the
128 Sheets C1 (Site Dimension Plan), C2 (Paving, Grading & Drainage Plan), C3 (Master
129 Utility Plan), C4 (Paving, Grading & Drainage Details), and C5 (Cross-Sections); and
130 plans dated July 16, 2018, without a last date of revision for Sheets SP-1 (Architectural
131 Site Plan), SP2 (Architectural Phasing Site Plan), A3.0 (Building Sections), A1.0 (First
132 Floor Plan), A1.1 (Second Floor Plan), A1.2 (Third Floor Plan), A2.1 (Exterior Elevations),

133 A2.2 (Site Design Regulations Elevation Diagrams), A2.3 (Site Design Regulations
134 Elevation Diagrams), ES-1 (Site Lighting Plan), ES-2 (Site Lighting Phasing Plan); and
135

136 (B) The 5-page landscape drawings prepared by David M.
137 Jones, Jr. and Associates, Inc., of Ft. Myers, FL, prepared under Project No. 218072
138 dated July 6, 2018 without a date of revision as to Sheet L-1 (Landscape Calculations);
139 L-2 (Landscape Plan); L-3 (Landscape Phasing Plan); L-4 (Irrigation Plan); and L-5
140 (Irrigation Plan).

141
142 The foregoing approved documents are on file in the City's Department of Growth
143 Management.

144
145 **SECTION 2. Adoption.** The Owner/Developer's Site Development Plan (SDP-18-
146 004313) for the Subject Property is hereby approved. The Site Development Plan is
147 approved subject to the conditions of approval set forth in Section 3. hereof.
148

149 **SECTION 3. Conditions of Approval.** Approval the Site Development Plan SDP-
150 18-004313) is subject to the following conditions:
151

152 (a) This approval for the Site Development Plan Permit on the Subject
153 Property is contingent upon approval of Variance Petition VP-18-004312 to provide for an
154 additional 6-feet of building height, just for the proposed classroom building. Should the
155 variance petition VP-18-004312 not be approved, the Site Development Plan approval is
156 void.

157
158 (b) The Owner/Developer shall provide prior to the commencement of
159 construction on the Subject Property a copy of the SFWMD/DEP ERP.
160

161 (c) The Owner/Developer shall provide prior to the commencement of
162 construction on the Subject Property to the City a copy of the Phasing schedule, which
163 will include the timelines for completion of the main classroom building.
164

165 (d) The modular buildings will be removed not later than 130 days after
166 a certificate of occupancy has been issued for the classroom building.
167

168 **SECTION 4. Failure to Obtain Other Permits.** That issuance of this approval by
169 the City does not in any way create any right on the part of the Owner/Developer to obtain
170 a permit from a state or federal agency and does not create any liability on the part of the
171 City for issuance of the approval if the Owner/Developer fails to obtain the requisite
172 approvals or fulfill the obligations imposed by a state or federal agency or undertakes
173 actions that result in the violation of state or federal law. All applicable state and federal
174 permits must be obtained before commencement of the Development. This condition is
175 included pursuant to Section 166.033, Florida Statutes, as amended.
176

177 **SECTION 5. Failure to Adhere to Resolution.** That failure to adhere to the
178 approval terms and conditions contained in this Resolution shall be considered a violation
179 of this Resolution and the City Code, and persons found violating this Resolution shall be
180 subject to the penalties prescribed by the City Code, including but not limited to the
181 revocation of any of the approval(s) granted in this Resolution and any other approvals
182 conditioned on this approval. The Owner/Developer understands and acknowledges that
183 it must comply with all other applicable requirements of the City Code before it may
184 commence construction or operation, and that the foregoing approval in this Resolution
185 may be revoked by the City at any time upon a determination that the Owner/Developer
186 is in non-compliance with the City Code.

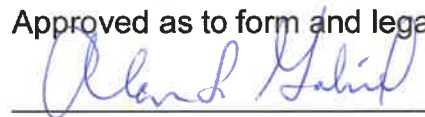
187 **SECTION 6. Effective Date.** That this Resolution shall take effect immediately
188 upon adoption.

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190
191 ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 10th day
192 of December 2018.

193
194 **ATTEST:**
195
196 
197 _____
198 Laura M. Litzan, City Clerk

CITY OF MARCO ISLAND, FLORIDA
By: 

Erik Brechnitz, Chairman

199
200 Approved as to form and legal sufficiency:
201 
202 _____
203 Alan L. Gabriel, City Attorney

