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RESOLUTION 19-01

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA APPROVING A VARIANCE TO ALLOW FOR A GUESTHOUSE ON LESS THAN A ONE (1) ACRE LOT; MAKING FINDINGS; APPROVING A VARIANCE FOR THE SUBJECT PROPERTY, LOCATED AT 880 SEAGRAPE DRIVE, MARCO ISLAND, FLORIDA; PROVIDING FOR FINDINGS AND CONDITIONS OF APPROVAL; PROVIDING FOR FAILURE TO COMPLY WITH THIS DEVELOPMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 30-65, of the Land Development Code, provides standards and considerations for the grant of a variance; and

WHEREAS, the Owner submitted Variance Petition 18-001776 for the Subject Property located at 880 Seagrape Drive, Marco Island, Florida 34145 on the Subject Property; and

WHEREAS, the City of Marco Island staff has reviewed and recommend approval of VP 18-001776; and

WHEREAS, based on Section 30-65(g)(3)c. of the LDC, the Planning Board finds an undue or unnecessary hardship would result from the literal interpretation of the provisions of this LDC resulting in demolition of the guesthouse; and

WHEREAS, based on Section 30-65(g)(3)f. of the LDC, the Planning Board finds that granting the variance will be in harmony with the intent and purpose of this zoning code, and not be injurious to the neighborhood, or otherwise detrimental to the public welfare; and

WHEREAS, based on Section 30-65(g)(3)h. of the LDC, the Planning Board finds that the granting of the variance will be consistent with the comprehensive plan; and .

WHEREAS, the City's Planning Board has reviewed and recommended approval of the Variance Petition, VP 18-001776;

WHEREAS, the City Council finds that the Variance Petition meets the requirements of the City of Marco Island Code of Ordinances and should be approved, 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.

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

49
50 (b) That as used herein, unless the context or City Code of Ordinances
51 requires to the contrary, the following terms will be defined as set forth below:

52
53 (1) "City" means the City of Marco Island, a Florida Municipal
54 Corporation.

55
56 (2) "Development" is defined as set forth in Section 163.3164,
57 Florida Statutes.

58
59 (3) "Development Permit" is defined as set forth in Section
60 163.3164, Florida Statutes.

61
62 (4) "LDC" means the City's Land Development Code as set forth
63 in Chapter 30, Code of Ordinances of the City of Marco Island, Florida.

64
65 (5) "Owner/Developer" means Kevin R. Lagrow and Kathleen N.
66 Lagrow.

67
68 (6) "Subject Property" means the following described parcel of
69 land, lying, situate and being in the State of Florida, County of Collier, City of Marco
70 Island, to-wit:

71
72 Lots 14 and 15, Block 341, Marco Beach Unit 10,
73 according to the plat thereof, as recorded in Plat Book
74 6, Pages 74-79, Public Records of Collier County,
75 Florida.
76

77 **SECTION 2. Adoption and Approval.** The Variance Petition 18-001776 approving
78 a guesthouse on less than a one (1) acre lot for the Subject Property is hereby approved,
79 subject to the conditions in Section 3. of this Resolution. This approval is specific as to
80 the Subject Property

81
82 **SECTION 3. Conditions of Approval.** Approval of the Variance Petition 18-
83 001776 is granted subject to the following conditions of approval:

84
85 (a) The Owner/Developer is required to enter into a binding lot
86 agreement similar to a deed restriction in recordable form and substance acceptable to
87 the City Attorney guaranteeing that neither the principal dwelling unit nor the guesthouse
88 will ever be separately used, sold, rented or leased; and

89
90 (b) The Owner/Developer is responsible for any private deed restriction
91 approvals with the Marco Island Civic Association.
92

93 **SECTION 4. Development Permit Does Not Create a Vested right For Other**
94 **Development Permits.** That issuance of this approval by the City does not in any way
95 create any right on the part of the Owner/Developer to obtain a permit from a state or
96 federal agency and does not create any liability on the part of the City for issuance of the
97 approval if the Owner/Developer fails to obtain the requisite approvals or fulfill the
98 obligations imposed by a state or federal agency or undertakes actions that result in the
99 violation of state or federal law. All applicable state and federal permits must be obtained
100 before commencement of the Development. This condition is included pursuant to
101 Section 166.033, Florida Statutes, as amended.
102

103 **SECTION 5. Failure to Comply With Resolution.** That failure to adhere to the
104 Variance approval and the approval terms and conditions contained in this Resolution
105 shall be considered a violation of this Resolution and the City Code, and persons found
106 violating this Resolution shall be subject to the penalties prescribed by the City Code.
107 The Owner/Developer understands and acknowledges that it must comply with all other
108 applicable requirements of the City Code before they may commence construction or
109 operation, and that the foregoing approval in this Resolution may be revoked by the City
110 at any time upon a determination that the Owner/Developer is in non-compliance with the
111 City Code.
112

113 **SECTION 6. Effective Date.** This Resolution shall be effective immediately
114 upon adoption.
115

116 ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 7th
117 day of January 2019.
118

119 **ATTEST:**

120 
121 _____
122 Laura M. Litzan, City Clerk
123

CITY OF MARCO ISLAND, FLORIDA

124 By: 
125 _____
126 Erik Brechnitz, Chairman
127

128 Approved as to form and legal sufficiency:

129 
130 _____
131 Alan L. Gabriel, City Attorney

