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RESOLUTION 19-02

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA APPROVING A CONDITIONAL USE FOR A GUESTHOUSE AT 880 SEAGRAPE DRIVE; MAKING FINDINGS; PROVIDING FOR CONDITIONS OF APPROVAL; PROVIDING FOR FAILURE TO OBTAIN OTHER PERMITS; PROVIDING FOR FAILURE TO COMPLY WITH RESOLUTION OF APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 30-64 of the Land Development Code, the City of Marco Island, Growth Management staff has reviewed and recommended approval of a conditional use for a guesthouse pursuant to Section 30-64 of the LDC, in a structure located at 880 Seagrape Drive, Marco Island, FL; and

WHEREAS, the Owner/Developer submitted a Conditional Use Petition, 18-001792, for the Development of the Subject Property; and

WHEREAS, the City of Marco Island staff has reviewed and recommend approval 18-001792; and

WHEREAS, pursuant to Section 30-64(c)2.a., of the LDC, the Planning Board finds the public interest will not be adversely affected if the conditional use permit is granted; and

WHEREAS, pursuant to Section 30-64(c)2.b., of the LDC, the Planning Board finds that the granting of the conditional use is consistent with the comprehensive plan; and

WHEREAS, pursuant to Section 30-64(c)2.c., of the LDC, the Planning Board finds that there is proper and adequate ingress to and egress from the Subject Property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe; and

WHEREAS, pursuant to Section 30-64(c)2.d., of the LDC, the Planning Board finds that the proposed conditional use is compatible with adjacent properties and other property in the district and will not alter the character of the community and neighborhood or be contrary to emerging development trends in the community and the neighborhood; and

WHEREAS, pursuant to Section 30-64(c)2.d., of the LDC, the Planning Board finds that building(s) on the Subject Property are oriented so as to enhance the appearance of the streetscape, and mass, bulk and scale of all structures shall be compatible with other structures and uses in the neighborhood; and

46 **WHEREAS**, the City’s Planning Board has reviewed and recommended approval
47 of the Conditional Use 18-001792;

48
49 **WHEREAS**, the City Council finds that the Conditional Use petition meets the
50 requirements of the City of Marco Island Code of Ordinances and should be approved,
51 subject to the conditions of approval set forth in this Resolution.

52
53 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY**
54 **OF MARCO ISLAND, FLORIDA:**

55
56 **SECTION 1. Recitals; Definitions.**

57
58 (a) That the foregoing “WHEREAS” clauses are ratified and confirmed
59 as being true and correct and are made a specific part of this Resolution.

60
61 (b) That as used herein, unless the context or City Code of Ordinances
62 requires to the contrary, the following terms will be defined as set forth below:

63
64 (1) “City” means the City of Marco Island, a Florida Municipal
65 Corporation.

66
67 (2) “Development” is defined as set forth in Section 163.3164,
68 Florida Statutes.

69
70 (3) “Development Permit” is defined as set forth in Section
71 163.3164, Florida Statutes.

72
73 (4) “LDC” means the City’s Land Development Code as set forth
74 in Chapter 30, Code of Ordinances of the City of Marco Island, Florida.

75
76 (5) “Owner/Developer” means Kevin R. Lagrow and Kathleen N.
77 Lagrow

78
79 (6) “Subject Property” means the following described parcel of
80 land, lying, situate and being in the State of Florida, County of Collier, City of Marco
81 Island, to-wit:

82
83 Lots 14 and 15, Block 341, MARCO BEACH UNIT 10,
84 according to the plat thereof, as recorded in Plat Book 6,
85 Pages 74-79, Public Records of Collier County, Florida.
86 Collier County Property Appraiser’s Folio Number:
87 5786680004

88
89 (7) “Site Plan” means the one (1)-page document entitled Lagrow
90 Cabana, prepared by J.C. Kosinski Engineering, Inc., of Fort Myers Beach, FL, under Job
91 Name Chadwick Outdoor Kitchens, dated June 23, 2016.

92 **SECTION 2. Adoption and Approval.** The Conditional Use 18-001792
93 on the Subject Property for a guesthouse as depicted on the Site Plan is hereby
94 approved, subject to the conditions in Section 3 of this Resolution.
95

96 **SECTION 3. Conditions of Approval.** Approval of the Conditional Use
97 petition 18-001792 is granted subject to the following conditions of approval:
98

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

103 (b) The Owner/Developer/Petitioner is responsible for any private deed
104 restriction approvals with the Marco Island Civic Association; and
105

106 (c) Approval of this conditional use is subject to the approval of a
107 variance permitting the guesthouse on the Subject Property smaller than one (1) acre in
108 size in the location depicted on the included site plan.
109

110 **SECTION 4. Development Permit does not grant a vested right.** That
111 issuance of this approval by the City does not in any way create any right on the part of
112 the Owner/Developer to obtain a permit from a state or federal agency and does not
113 create any liability on the part of the City for issuance of the approval if the
114 Owner/Developer fails to obtain the requisite approvals or fulfill the obligations imposed
115 by a state or federal agency or undertakes actions that result in the violation of state or
116 federal law. All applicable state and federal permits must be obtained before
117 commencement of the Development. This condition is included pursuant to Section
118 166.033, Florida Statutes, as amended.
119

120 **SECTION 5. Failure to Comply With Resolution.** That failure to adhere to the
121 Conditional Use approval and the approval terms and conditions contained in this
122 Resolution shall be considered a violation of this Resolution and the City Code, and
123 persons found violating this Resolution shall be subject to the penalties prescribed by the
124 City Code. The Owner/Developer understands and acknowledges that it must comply
125 with all other applicable requirements of the City Code before they may commence
126 construction or operation, and that the foregoing approval in this Resolution may be
127 revoked by the City at any time upon a determination that the Owner/Developer is in non-
128 compliance with the City Code.
129

130 **SECTION 6. Effective Date.** This Resolution shall be effective immediately
131 upon adoption.
132

133 ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 7th day of
134 January 2019.
135
136

137 **ATTEST:**

138

139

140 

Laura M. Litzan, City Clerk

141

142

143 Approved as to form and legal sufficiency:

144

145

146 

Alan L. Gabriel, City Attorney

CITY OF MARCO ISLAND, FLORIDA

By: 

Erik Brechnitz, Chairman