

RESOLUTION 19-17

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF MARCO ISLAND, FLORIDA APPROVING A FOUR AND ONE-HALF FOOT ENCROACHMENT INTO THE WEST SEVEN AND ONE-HALF FOOT RIPARIAN SETBACK AT LOT 17, BLOCK 5, AND LOT 1, BLOCK 6, OLD MARCO VILLAGE, PLAT BOOK 6, PAGE 3, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA, LOCATED AT 1066 RUPPERT ROAD, AS PROVIDED FOR IN SECTION 54-115 OF THE MARCO ISLAND LAND DEVELOPMENT CODE, CITY OF MARCO ISLAND, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 54-115, Code of Ordinances of the City of Marco Island, Florida provides regulations for the approval of encroachments into the riparian setback; and

WHEREAS, the City of Marco Island staff has reviewed VP-18-006166, an application for an encroachment into the riparian setback; and

WHEREAS, the Planning Board finds that the encroachment into the riparian setback is warranted due to property being located at the end of a rounded canal in addition to the narrow width which appears to prevent the construction of a dock large enough to accommodate a regular boat; and

WHEREAS, the dimensions are the minimum necessary to secure the moored vessel while providing access to the boat for maintenance; and

WHEREAS, the proposed dock will not protrude into any adjacent neighbors' riparian setbacks. In fact, the adjacent property encroaches into this riparian setback; and

WHEREAS, the Owner/Developer indicates there is no seagrass within 200 feet of the proposed dock facility; and

WHEREAS, all best management practices will be adhered to regarding this dock facility and will become a condition of approval; and

WHEREAS, the Planning Board finds that the proposed encroachment into the riparian setback is located to minimize the impact of view to the channel by surrounding property owners; and

WHEREAS, the Planning Board finds that the proposed dock is not located within a manatee protection zone as provided in Section 54-117, Code of Ordinances of the City of Marco Island; and

WHEREAS, the City's Planning Board reviewed and recommended approval of VP-18-006166 on March 1, 2019; and

WHEREAS, the Planning Board does hereby approve VP-18-006166 subject to the conditions of approval as set forth in this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD OF THE CITY OF MARCO ISLAND, FLORIDA, SITTING AS THE BOARD OF ZONING APPEALS:

SECTION 1. Recitals; Definitions.

(a) The foregoing "Whereas" clauses are hereby ratified and confirmed as being true, correct and incorporated by this reference into this Resolution.

(b) As used herein, the following terms are defined as set forth below, unless the context of usage in this Resolution affirmatively demonstrates to the contrary:

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

(2) "Development" shall be defined as set forth in Section 163.3164 of the Florida Statutes.

(3) "Owner/Developer" means Gabrielle Winter, as Trustee of the Larimer Land Trust dated December 23, 2016, and Collier Seawall & Dock, LLC, a Florida Limited Liability Company.

(4) "Site Plan" the three page document on file in the office of the City of Marco Island Growth Management Department entitled "Winter – 1066 Ruppert – Marco Island", prepared by Collier Seawall & Dock, LLC, of Marco Island, FL, with Sheets A1, A2, and A3, dated 10/29/18, all without date of revision.

(5) "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: A portion of Lot 17, Block 5 and a portion of Lot 1, Block 6, Old Marco Village, as recorded in Plat Book 6, Page 3, Public Records of Collier County, Florida, more particularly described as follows: From the Southwest corner of Lot 17, Block 5, run S. 78°39'52" W. along the South line of Lot 1, Block 6, for 72.55 feet to the Point of Beginning; thence run N. 05°55'20" W. for 128.86 feet to a point on the North line of said Lot 1, Block 6; thence Northerly 39.43 feet along the arc of a curve, concave to the Northwest, having a radius of 30.00 feet and subtended by a chord having a length of 36.65 feet and a bearing of N. 30°30'63" E., thence run S. 74°58'47" E., for 126.88 feet to a point on the East line of Lot 17; thence run Southerly 100.18 feet along the arc of a curve, concave to the East, having a radius of 627.18 feet and subtended by a chord having a length of 100.08 feet and a bearing of S. 04°01'04" E., said curve being the

East line of Lot 17; thence run S. 78°39'52" W., along the South line of Lots 17, Block 5, and Lot 1, Block 6 for the 137.55 feet to the Point of Beginning: (subject to drainage easement over and across the Westerly 5 feet thereof and also subject to platted easements).

The legal description has not been examined by the City of Marco Island or Weiss Serota Helfman Cole & Bierman, P.L., but is based on the deed recorded in Official Records Book 5371, Page 3249, Public Records of Collier County, Florida.

SECTION 2. Adoption and Approval. Based on the Site Plan, VP-18-006166 with respect to the Subject Property, located at 1066 Ruppert Road, Marco Island, Florida, 34145, for a 4.5 foot variance into the West 7.5 foot riparian setback, is hereby approved, subject to the below conditions.

SECTION 3. Conditions of Approval. This Resolution relating to VP-18-006166 on the Subject Property is granted subject to the following conditions of approval:

(a) The Owner/Developer is required to re-submit construction documents to the City's Building Department for review and approval prior to the commencement of Development; and

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

(c) 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 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. This Resolution shall be effective immediately upon adoption by the Planning Board.


ADOPTED BY THE PLANNING BOARD OF THE CITY OF MARCO ISLAND this 1ST day of MARCH 2019.

ATTEST:

CITY OF MARCO ISLAND, FLORIDA

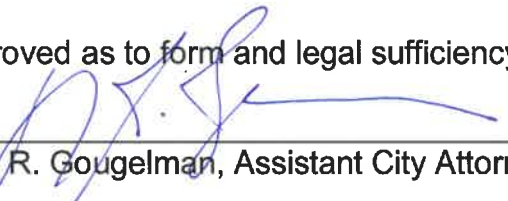


Laura M. Litzan, City Clerk

By: 

Ronald Goldstein, Chairman

Approved as to form and legal sufficiency:



Paul R. Gougelman, Assistant City Attorney