

**RESOLUTION 20-43**

**A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA APPROVING A SITE DEVELOPMENT PLAN AMENDMENT FOR WINDWARD OF MARCO ISLAND, LLC, A FLORIDA LIMITED LIABILITY COMPANY, ON LOT 12, BLOCK 777, A REPLAT OF A PORTION OF MARCO BEACH UNIT FOUR, PLAT BOOK 12, PAGES 19-21, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA, LOCATED AT 921 WINDWARD DRIVE, MARCO ISLAND, FLORIDA 34145 (SDPA-20-000228); MAKING FINDINGS; APPROVING THE SITE DEVELOPMENT PLAN AMENDMENT SUBJECT TO CONDITIONS; REQUIRING THE OBTAINING OF ALL FEDERAL AND STATE PERMITS BEFORE COMMENCING DEVELOPMENT; PROVIDING FOR FAILURE TO COMPLY WITH APPROVAL; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS, the Owner/Developer received approval of the original Site Development application #19-000919 on September 16, 2019; and**

**WHEREAS, James Moyer, on behalf of Windward of Marco Island, LLC, a Florida Limited Liability Company, submitted a Site Development Plan Amendment for the Development of an amendment to a commercial structure on 921 Windward Drive, Marco Island, Florida 34145; and**

**WHEREAS, this Site Development Plan Amendment is an amendment to the Site Development application #19-000919 approved on September 16, 2019; and**

**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, pursuant to Section 30-673(2) of the LDC, the Planning Board reviewed the Site Development Plan Amendment for a change to the floor plans 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 Site Development Plan Amendment for 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

**WHEREAS**, the City of Marco Island staff has reviewed and recommended approval of SDPA-20-000228 and the Site Development Plan Amendment subject to certain conditions of approval; and

**WHEREAS**, the City's Planning Board has reviewed and recommended approval of the Site Development Plan Amendment on October 2, 2020; and

**WHEREAS**, the City Council does hereby approve the Site Development Plan Amendment SDPA-20-000228, 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.**

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

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

(1) "Owner/Developer" means Windward of Marco Island, LLC, a Florida Limited Liability Company, and James Moyer, and their respective successors and assigns.

(2) "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:

Lot 12, Block 777, a Replat of a portion of Marco Beach Unit Four, a Subdivision, according to the plat thereof, as recorded in Plat Book 12, Pages 19-21, Public Records of Collier County, Florida; Collier County Property Appraiser's Tax Parcel 57040400008.

(3) "Site Development Plan Amendment" means the following documents: The four page document entitled "Unit #7 Loft Addition" for 921 Windward Drive, prepared by Dave Wainscott Designs of Naples, FL, with Job No. 2019-132 with regard to Sheet A1 (Floor Plans with Notes and Schedules) dated 3/2020 with last date of revision dated 9/24/2020; Sheet A2 (Storage Building) dated 3/25/2020, with last date

of revision being 4/15/2019; Sheet A-LS1a (Unit #7 Life Safety Plan For Loft) dated 6/2020 with no date of revision; and Sheet S1 (Loft Framing Plan with Notes and Schedules, dated 3/2020 with last date of revision being 9/24/2020.

The foregoing approved document is on file in the City's Department of Growth Management.

**SECTION 2. Adoption.** The Owner/Developer's Site Development Plan Amendment for the Subject Property is hereby approved.

**SECTION 3. Conditions of Approval.** The Site Development Plan Amendment is approved subject to the following conditions:

(a) Prior to forwarding the application to the City Council, add the mezzanine floor area for units #1 through #6 on the Site Development Plan Amendment plans; and

(b) Prior to forwarding the application to the City Council, provide elevation plans showing the A/C units and stand. Pursuant to Section 306.5 of the Florida Building Code, elevated equipment and appliances are required to have maintenance access.

(c) No overnight parking (11 pm to 6 am) on any day of motor vehicles outside of any structure with the exception of one motor vehicle used by a permitted caretaker.

(d) No residential use of the Subject Property is permitted with the exception of a permitted caretaker. (Note that neither the Site Development Plan nor the Site Development Plan Amendment currently provide for a caretaker unit.)

(e) Prior to the issuance of a City building permit for any of the Units (Unit #1 through #7) the Owner/Developer shall submit the proposed Declaration of Restriction to the City for City confirmation of applicable zoning, and subsequent recording by the Owner/Developer in the Collier County Public Records

(f) Prior to the issuance of a certificate of occupancy, a copy of the recorded Declaration of Restriction shall be provided to the City.

**SECTION 4. Failure to Obtain Other Permits.** 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 5. Failure to Adhere to 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 6. Effective Date.** That this Resolution shall take effect immediately upon adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, this 19<sup>th</sup> day of October 2020.

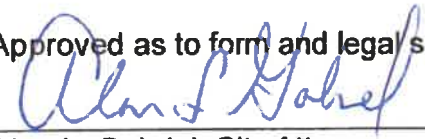
**ATTEST:**

  
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Laura M. Litzan, City Clerk

**CITY OF MARCO ISLAND, FLORIDA**

By:   
\_\_\_\_\_  
Erik Brechnitz, Chairman

Approved as to form and legal sufficiency:

  
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Alan L. Gabriel, City Attorney