

RESOLUTION 22-07

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING A SITE DEVELOPMENT PLAN FOR MARCO CLUB LLC, LOCATED AT 1111, 1117, 1121 AND 1202 BALD EAGLE DRIVE, MARCO ISLAND; MAKING FINDINGS; PROVIDING DEFINITIONS; APPROVING THE SITE DEVELOPMENT PLAN; PROVIDING CONDITIONS OF APPROVAL; PROVIDING FOR FAILURE TO OBTAIN OTHER DEVELOPMENT PERMITS; PROVIDING FOR FAILURE TO COMPLY WITH APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article IX, Site Development and Site Development Plan Standards, Sections 30-671 through 30-680, of the Marco Island Land Development Code provides standards and regulations for the review and approval of site improvement plans; and

WHEREAS, the Owner/Developer submitted a Site Development Plan for the Development of restaurant and off-site prep-kitchen and parking lot at 1111, 1117, 1121 and 1202 Bald Eagle Drive, Marco Island, Florida, on the Subject Property; and

WHEREAS, the City of Marco Island staff has reviewed and recommended approval of SDP-21-000089; 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

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

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

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

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

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

WHEREAS, the City's Planning Board has reviewed and recommended approval of the Site Development Plan as being in compliance with applicable LDC regulations on July 10, 2020, *accord* Broward County v. G.B.V. International, Ltd., 787 So.2d 838 (Fla. 2001); and

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD 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) "City" means the City of Marco Island, a Florida Municipal Corporation.

- (2) "Development" is defined as set forth in Section 163.3164, Florida Statutes.
- (3) "Development Permit" is defined as set forth in Section 163.3164, Florida Statutes.
- (4) "Land Development Code" or "LDC" means the Land Development Code which consists of Chapter 30, Code of Ordinances of the City of Marco Island.
- (5) "Owner/Developer" means Marco Club, LLC, and their respective successors and assigns, as owners or developers of the Subject Property.
- (6) "Site Development Plan" means: the fifty (50) page document including:
 - (A) Eight (8) page architectural plan prepared by MHK Architecture & Planning, of Naples, FL, dated December 8, 2021; Sheet SK1 (Main Level Floor Plan and Roof Plan); Sheet SK2 (West & East Elevations); SK3 (North & South Elevations); SK4 (Building Section); and SK5, SK6 and SK7 (Renderings); and
 - (B) One (1) page Property Survey prepared by Portella & Associates, LLC, of Naples, FL, date April 7, 2021; and
 - (C) Twelve (12) page Civil Plans prepared by Davidson Engineering Inc. of Naples, FL, entitled Site Development Plans, under Job No. 21-0020, dated December 9, 2021, with a last date of revision of November 11, 2021; Sheet C-00.20 (Current Aerial View Map); Sheet C-10.00 (Existing Conditions and Demolition Plan); Sheet C-20.00 (Master Site Plan; Sheet C-20.01 (Off-Site Parking Plan); Sheet C-21.00 (Master Drainage Plan); Sheet C-22.00 (Master Utilities Plan); Sheet C-26.00 (Paving and Drainage Details); Sheet C-26.01 (Utility Details); Sheet C-26.02 (Dumpster Detail); Sheet C-28.00 (NPDES Pollution Prevention Plan); and
 - (D) Twelve (12) page Landscape Plans entitled 1202 Bald Eagle, prepared by Architectural Land Design Inc., of Naples, FL, under File No. 21-032, dated December 7, 2021 with no last date of revision; Sheet 2.0 (Overall Planting Plan); Sheet 2.1 [(Planting Plan (South))]; Sheet 2.2 [(Planting Plan (North))]; Sheet 2.3 (Plants Picture Plan); Sheet 2.4 (Planting Details and Specifications); Sheet 3.0 (Site Irrigation Plan); Sheet 3.1 [(Irrigation Plan (South))]; Sheet 3.2 [(Irrigation Plan (North))]; Sheet 3.3 [(Irrigation Plan (North))]; Sheet 3.4 [(Irrigation Plan (South))]; and

- (E) Five (5) page Landscape Plans titled 1121 Bald Eagle, Prepared by Architectural Land Design Inc., of Naples, FL, under File No. 21-207 dated December 7, 2021 with no last date of revision; Sheet 0 (Existing Conditions Plan); Sheet 2.0 (Site Planting Plan); Sheet 2.1 (Planting Plan); Sheet 2.2 (Plant Details and Specifications); and
 - (F) Six (6) page Traffic Impact Study titled 1202 bald Eagle Drive – Restaurant, prepared by Davidson Engineering, Inc., of Naples, FL, dated August 3, 2021.
 - (G) Six (6) page Parking Lot Use Agreement titled the same, dated December 1, 2021.
- (6) "Subject Property" means the following described parcels of land, lying, situate and being in the State of Florida, County of Collier, City of Marco Island, to-wit:

COLLIER CITY BLK 2 LOT 18 & PART OF VACATED SHORE DR. ALSO VAC LEE AVE DESC IN OR 391-204 , AND BLOCK 16, LOTS 2 & 3 AND THAT PORTION OF LOT 1 LYING S OF RELOCATED SHORE DRIVE ALL AS FURTHER DESC IN OR 5817 PG 1790; and COLLIER CITY BLK 18 LOTS 15 + 16 AND LOTS 13 + 14; and COLLIER CITY BLK 18 LOTS 17 + 18; and COLLIER CITY BLK 18 LOTS 19 + 20, Public Records of Collier County, FL

(Said Legal Description has neither been reviewed nor examined by the City, Weiss Serota Helfman Cole & Bierman, P.L., Alan Gabriel, Esq., or David N. Tolces, Esq.)

SECTION 2. Adoption. The Owner/Developer's Site Development Plan for the Subject Property is hereby approved. The Site Development Plan is approved subject to the following conditions of approval set forth in Section 3. of this Resolution.

SECTION 3. 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 on the Subject Property. This condition is included pursuant to Section 166.033, Florida Statutes, as amended.

SECTION 4. Conditions.

- (a) The approved parking agreement is filed with Collier County, Florida and a copy

of the recorded document provided to the City.

- (b) The off-site parking agreement requires approval by the City Council. If not approved, 21-000089 is null and void.

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 PLANNING BOARD OF THE CITY OF MARCO ISLAND, this 4th day of February 2022.

ATTEST:




Laura Litzan, City Clerk

CITY OF MARCO ISLAND, FLORIDA

By: 

Jason Bailey, Chairman

Approved as to form and legal sufficiency:



David N. Tolces, City Attorney

