

RESOLUTION 22-10

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA APPROVING VARIANCE PETITION 21-000298, REQUESTING A VARIANCE TO SECTION 30-624(L)(3), "HEIGHT OF LIGHT FIXTURES"; VARIANCE PETITION 21-000299, REQUESTING A VARIANCE TO SECTION 30-441 (G) "PLANT MATERIAL IN BUFFER," TO PERMIT A SCOREBOARD, FLAGPOLE, FIELD LIGHTS AND 6" FLUSH CONCRETE CURB IN THE LANDSCAPE BUFFER; VARIANCE PETITION 21-000325, REQUESTING A VARIANCE TO SETBACK FOR SCOREBOARD; AND VARIANCE PETITION 21-000326, REQUESTING A VARIANCE TO SETBACK FOR FLAGPOLE ALL RELATED TO THE PROPERTY LOCATED AT 2255 SAN MARCO ROAD, 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, Marco Island Academy – A Public Charter High School, Inc. (the "Owner") submitted Variance Petition 21-000298, requesting a variance to Section 30-624 (l)(3) of the City's Land Development Code (the "LDC"), "Height of Light Fixture"; Variance Petition 21-000299, requesting a variance to Section 30-441(g) of the LDC, "Plant Material In Buffer," to permit the relocation of canopy trees, and to permit a scoreboard, flagpole and field light poles in the landscape buffer; Variance Petition 21-000325, requesting a variance to setback for scoreboard; and Variance Petition 21-000326, requesting a variance to setback for flagpole for the Subject Property located at 2255 San Marco Dr., Marco Island, Florida 34145; and

WHEREAS, the City of Marco Island staff has reviewed and recommend approval of Variance Petitions 21-000298, 21-000299, 21-000235 and 21-0032; and

WHEREAS, the Planning Board finds there are special/peculiar circumstance for this request is property involved is for a middle/high school with sports teams on the island. This is the only such use. In addition, the irregular shape of the lot coupled with the wetlands requires the maximum use of the site.; and

WHEREAS, the Planning Board finds the literal interpretation of the LDC could pose an unnecessary hardship and practical difficulty since the since the field will be used for sports competitions and the trees, flagpoles, scoreboard, and lack of sufficient lighting, could pose a risk to safety of players and spectators; and

WHEREAS, the Planning Board finds the variances are the minimum necessary for reasonable use of the land; and

WHEREAS, the Planning Board finds Granting of the variances will not confer any special privilege on this applicant; and

WHEREAS, the Planning Board finds that granting of the variances will be in harmony with the intent and purpose of the LDC and not be injurious to the neighborhood as sports is an integral part of a middle/high school and these variances will allow for items typically associated with sports fields; and

WHEREAS, the Planning Board finds the granting of the variances will be consistent with the Comprehensive Plan, i.e., VII Intergovernmental Coordination Element, Goal 1.

WHEREAS, the City's Planning Board has reviewed and recommended approval of the Variance Petitions 21-000298, 21-000299, 21-000235 and 21-0032 ;

WHEREAS, the City Council finds that the Variance Petitions meet 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. Adoption and Approval. Variance Petitions 21-000298, requesting a variance to Section 30-624(l)(3) of the LDC, "Height of Light Fixture; Variance Petition 21-000299, requesting a variance to Section 30-441(g) of the LDC, "Plant Material In Buffer," to permit the relocation of canopy trees, and to permit a scoreboard, flagpole and field light poles in the landscape buffer; Variance Petition 21-000325, requesting a variance to setback for scoreboard; and Variance Petition 21-000326, requesting a variance to setback for flagpole, all related to the property located at 2255 San Marco Dr., Marco Island, Florida 34145 (the "Subject Property"). This approval is specific as to the Subject Property. The City Council finds that the Variance Petitions meet 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.

SECTION 2. Development Permit Does Not Create a Vested right For Other Development 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 3. Failure to Comply With Resolution. That failure to adhere to the Variance approval and 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. The Owner/Developer understands and acknowledges that it must comply with all other applicable requirements of the City Code before they 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.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 4th day of April 2022.

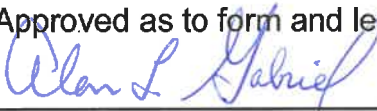
ATTEST:



Lina Upham, Deputy City Clerk

CITY OF MARCO ISLAND, FLORIDA
By: 

Erik Brechnitz, Chairman

Approved as to form and legal sufficiency:


Alan L. Gabriel, City Attorney

