

RESOLUTION 23-06

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING A VARIANCE TO REDUCE THE FRONT SETBACK FROM TWENTY-FIVE (25) FEET TO TWELVE AND ONE-HALF (12.5) FEET ALONG THE FRONT YARD SETBACK FOR THE PROPERTY LOCATED AT 807 EAST ELKCAM CIRCLE, MARCO ISLAND, FLORIDA 34145; PROVIDING FOR CONDITIONS OF APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 30-65, of the Marco Island Land Development Code provides standards and regulations for the review and approval of variance procedures; and

WHEREAS, the City of Marco Island, owner, ("Petitioner"), submitted a Variance Petition VP 22-00204 for property located at 807 E. Elkcam Circle, Marco Island, Florida 34145 (the "Subject Property"); and

WHEREAS, the Subject Property is legally described as follows:
MARCO BCH UNIT 4 A PORT OF TR C DESC AS FOLL: COMM C/L OF INTERSEC OF WINDWARD DR & ELKAM CIR, NWLY ALG C/L 323.40 FT, N 69DEG E 40FT TO POB, N 69DEG E 163.63FT, S 20DEG E 149.22FT, S 65DEG W 162.05FT, NWLY ALG R/W 159.44FT, OR 729 PG 1646, AND MARCO BCH UNIT 4 PORTIONS OF TRACTS D & F DESC AS: COMM NLY CNR TR D, S 25DEG E 93.42FT TO POB; CONT S 25DEG E 551.18FT, S 36DEG E 295.60FT, S120FT, S 50DEG W 150.22FT, N 53DEG W 101.30FT, S 45DEG W 143.90FT, N 45DEG W 75FT, S 45 DEG W 159.77FT, N 45DEG W 200 FT, N 45DEG W 80.02FT TO BEGIN CURV CONCAVE NELY WITH RADIUS 960FT THRU CENTRAL ANGLE 93DEG 22'20" FOR 40.74FT, N 56DEG E 123.38FT, N 31DEG W 60FT, N 20 DEG W 230FT, N 58DEG E 344.72 FT, N 31DEG W 92.97FT, N 33DEG W 153FT, NELY ALG NORTH LINE 157FT TO POB, AND MARCO BCH UNIT 4 REPLAT BLK 781 TRACT J; and

WHEREAS, the Subject Property is unique since it is owned by the City and serves as the City's north water treatment plant/reclaimed water production facility and classified as critical infrastructure pursuant to the United States Department of Homeland Security; and

WHEREAS, the grades along the Subject Property pose a challenge with the proposed building that require that the proposed building to be located on the Subject

Property be located closer to the front of the Subject Property, and there are existing improvements located on the Subject Property that cannot be moved; and

WHEREAS, the setback variance is the minimum needed to accommodate grades on the Subject Property; and

WHEREAS, that the variance, if granted, be the minimum variance that will make possible the reasonable use of the land, building or structure and which promote standards of health, safety, or welfare; and

WHEREAS, granting the variance will not confer special privilege; and

WHEREAS, granting the variance will be in harmony and not detrimental as shown by a similar variance granted for the same setback for the Subject Property in 2010; and

WHEREAS, that there are natural conditions, grades, that ameliorate the goals and objectives of the regulation; and

WHEREAS, the granting of the variance is consistent with the following provisions within the City of Marco Island Comprehensive Plan:

IV Infrastructure Element, Goal 1, Objective 1.1

GOAL 1: POTABLE WATER

ASSURE A SUFFICIENT, DEPENDABLE, AND HIGH-QUALITY POTABLE WATER SUPPLY TO MEET THE NEEDS OF MARCO ISLAND'S EXISTING AND FUTURE DEVELOPMENT NEEDS ON A TIMELY BASIS, AT A REASONABLE COST, AND, AT A MINIMUM, THAT COMPLIES WITH ALL FEDERAL AND STATE REQUIREMENTS TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC.

Objective 1.1

The City of Marco Island shall locate and develop potable water supply sources to meet the future needs of the City of Marco Island, and as necessary to meet or exceed the minimum Level of Service (LOS) standards established by the City's Ten-Year Water Supply Facilities Work Plan (dated February 11, 2022), the City's Utility Master Plan, and the Lower West Coast Water Supply Plan prepared by the South Florida Water Management District.; and

WHEREAS, the City of Marco Island (“City”) staff have reviewed the application for the variance, and recommend approval; and

WHEREAS, the City’s Planning Board reviewed and recommended approval of Variance Petition VP 22-000204; and

WHEREAS, City Council does hereby approve Variance Petition VP 22-00240, subject to the conditions of approval as set forth in this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA:

SECTION 1. Recitals. The foregoing “Whereas” clauses are hereby ratified and confirmed as being true, correct and incorporated by this reference.

SECTION 2. Variance Approved. Based on the testimony and evidence presented to the City Council, the City Council finds that Variance Petition VP 22-000204 meets the requirements of Section 30-65(g)(3) of the City of Marco Island Land Development Code, and hereby approves the front yard setback for the Subject Property as requested.

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. 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 5. Effective Date. That this Resolution shall take effect immediately upon adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 6th day of February 2023.

ATTEST:

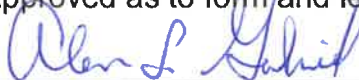


Michael J. Sheffield, City Clerk

CITY OF MARCO ISLAND, FLORIDA
By: 

Gregory Folley, Chairman

Approved as to form and legal sufficiency:



Alan L. Gabriel, City Attorney