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RESOLUTION 23-07

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING A SITE DEVELOPMENT PLAN FOR PROPERTY LOCATED AT 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, Marco Club, LLC, (the "Owner/Developer"), submitted a Site Development Plan for the development of a restaurant located at 1202 Bald Eagle Drive, Marco Island, Florida (the "Subject Property"); and

WHEREAS, the City of Marco Island staff has reviewed and recommended approval of SDP-22-000246; and

WHEREAS, the City of Marco Planning Board reviewed and approved SDP-22-000246 on December 2, 2022, pursuant to Sec. 30-673 of the City of Marco Island Land Development Code ("LDC"); and

WHEREAS, an appeal of the Planning Board's approval was filed by affected property owners collectively, Snook of Marco Island, LLC, Flag Capital, LLC, Old Marco Village Holdings, LLC, with the City Manager on December 15, 2022, pursuant to Sec. 30-678 of the City of Marco Island Land Development Code; and

WHEREAS, pursuant to Section 30-673(1) of the LDC, the City Council has reviewed documentation related to 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 City Council 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

46 flow and control, traffic calming devices, provision of private and/or public utilities and
47 refuse collection, and access in case of fire, catastrophe or other emergency; and
48

49 **WHEREAS**, pursuant to Section 30-673(3) of the LDC, the City Council has
50 reviewed the location and relationship of parking and loading facilities with a goal to
51 complement and optimize traffic conditions on city streets and internal traffic patterns
52 within the proposed Development for vehicular and pedestrian safety, traffic flow and
53 control, access in case of fire or catastrophe, screening and landscaping; and
54

55 **WHEREAS**, pursuant to Section 30-673(4) of the LDC, the City Council has
56 reviewed the adequacy of proposed or required recreational facilities, if any, and open
57 spaces considering the size, location, and development of these areas with regard to
58 effect on adjacent and nearby properties as well as uses within the proposed
59 Development, and the relationship to community-wide open spaces and recreation
60 facilities; and
61

62 **WHEREAS**, pursuant to Section 30-673(5) of the LDC, the City Council has
63 reviewed the adequacy of proposed landscape screens and buffers considering
64 preservation of the development's internal land uses as well as compatibility with
65 adjacent land uses; and
66

67 **WHEREAS**, pursuant to Section 30-673(6) of the LDC, the City Council has
68 reviewed the water management master plan or stormwater provisions and designs on
69 the property, considering adverse impacts on adjacent and nearby properties and the
70 consequences of such water management master plan or stormwater discharges on
71 overall city drainage capacities within and external to private and public drainage
72 easements and alley and road right-of-way; and
73

74 **WHEREAS**, pursuant to Section 30-673(8) of the LDC, the City Council has
75 reviewed the architectural design of the building(s) for compliance with applicable LDC
76 requirements; and
77

78 **WHEREAS**, the City Council has reviewed and found the proposed Site
79 Development Plan complies with Section 30-675(c)(3) of the LDC; and
80

81 **WHEREAS**, the City Council has found that the proposed Site Development
82 Plan complies the Comprehensive Plan's Future Lane Use Element, Goal 1 Livable
83 Small Town Community, in providing a balanced mix of land uses to serve local
84 residents and the visitor population; and
85

86 **WHEREAS**, the City Council has found that the proposed Site Development
87 Plan complies with the Comprehensive Plan's Transportation Element, Objective 1.2,
88 in meeting the Level of Service (LOS) for maximum daily volumes of traffic as derived
89 from peak hour traffic conditions, not going below a LOS D; and
90

WHEREAS, the City Council reviewed and approved the Site Development Plan

91 with conditions, and found that the Site Development Plan is in compliance with applicable
92 LDC regulations on January 23, 2023, *accord Broward County v. G.B.V. International,*
93 *Ltd.*, 787 So.2d 838 (Fla. 2001); and
94

95 **WHEREAS**, the City Council does hereby affirm with conditions the Planning
96 Board approval of Site Development Plan SDP–22-000246 subject to the conditions of
97 approval set forth in this Resolution.
98

99 **NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD OF THE**
100 **CITY OF MARCO ISLAND, FLORIDA:**

101
102 **SECTION 1. Recitals; Definitions.**
103

104 (a) That the foregoing “WHEREAS” clauses are ratified and confirmed
105 as being true and correct and are made a specific part of this Resolution.
106

107 (b) That as used herein, unless the context hereof, or City Code of
108 Ordinances, requires to the contrary, the following terms will be defined as set forth below:
109

110 (1) “City” means the City of Marco Island, a Florida Municipal
111 Corporation.
112

113 (2) “Development” is defined as set forth in Section 163.3164, Florida
114 Statutes.
115

116 (3) “Development Permit” is defined as set forth in Section 163.3164,
117 Florida Statutes.
118

119 (4) “Land Development Code” or “LDC” means the Land Development
120 Code which consists of Chapter 30, Code of Ordinances of the City
121 of Marco Island.
122

123 (5) “Owner/Developer” means Marco Club, LLC, and their respective
124 successors and assigns, as owners or developers of the Subject
125 Property.
126

127 (6) “Site Development Plan” means: the fifty (50) page document
128 including:

129 (A) Seven (7) page architectural plan prepared by MHK
130 Architecture & Planning, of Naples, FL, dated October 21,
131 2022; Sheet SK1 (Main Level Floor Plan and Roof Plan);
132 Sheet SK2 (West & East Elevations); SK3 (North & South
133 Elevations); SK4 (Building Section); and SK5 and SK6.
134 (Renderings); and

135 (B) One (1) page Property Survey prepared by Portella &
36 Associates, LLC, of Naples, FL, date April 7, 2021; and

- 137 (C) Eleven (11) page Civil Plans prepared by Davidson
138 Engineering Inc. of Naples, FL, entitled Site Development
139 Plans, under Project No. 21-0020 dated November 17, 2022.
140 Sheet C-00.20 (Current Aerial View Map); Sheet C-10.00
141 (Existing Conditions and Demolition Plan); Sheet C-20.00
142 (Master Site Plan; Site Parking Plan); Sheet C-21.00 (Master
143 Drainage Plan); Sheet C-22.00 (Master Utilities Plan); Sheet
144 C-26.00 (Paving and Drainage Details); Sheet C-26.01 (Utility
145 Details); Sheet C-26.02 (Dumpster Detail); Sheet C-28.00
146 (NPDES Pollution Prevention Plan); and
147 (D) Twelve (12) page Landscape Plans entitled 1202 Bald Eagle,
148 prepared by Architectural Land Design Inc., of Naples, FL,
149 under File No. 21-032, dated December 7, 2021 with no last
150 date of revision; Sheet 2.0 (Overall Planting Plan); Sheet 2.1
151 [(Planting Plan (South))]; Sheet 2.2 [(Planting Plan (North))];
152 Sheet 2.3 (Plants Picture Plan); Sheet 2.4 (Planting Details
153 and Specifications); Sheet 3.0 (Site Irrigation Plan); Sheet 3.1
154 [(Irrigation Plan (South))]; Sheet 3.2 [(Irrigation Plan (North))];
155 Sheet 3.3 [(Irrigation Plan (North))]; Sheet 3.4 [(Irrigation Plan
156 (South))]; and
157 (E) Twenty-Seven (27) page Traffic Count and Level of Service
158 Analysis – dated April 21, 2022 by TYLin International of Fort
159 Myers, FL.

- 160
161 (6) "Subject Property" means the following described parcels of land,
162 lying, situate and being in the State of Florida, County of Collier,
163 City of Marco Island, to-wit:

164
165 COLLIER CITY BLK 2 LOT 18 & PART OF VACATED SHORE DR.
166 ALSO VAC LEE AVE DESC IN OR 391-204 , AND BLOCK 16, LOTS
167 2 & 3 AND THAT PORTION OF LOT 1 LYING S OF RELOCATED
168 SHORE DRIVE ALL AS FURTHER DESC IN OR 5817 PG 1790
169 Public Records of Collier County, FL

170
171 (Said Legal Description has neither been reviewed nor examined by the
172 City, Weiss Serota Helfman Cole & Bierman, P.L., Alan L. Gabriel, Esq., or
173 David N. Tolces, Esq.)
174

175 **SECTION 2. Adoption.** The City Council finds that the Owner/Developer's Site
176 Development Plan for the Subject Property meets the requirements of Section 30-
177 675(c)(3) of the LDC, and hereby approves the Site Development Plan subject to the
178 conditions of approval as set forth in Section 4. of this Resolution.
179

180 **SECTION 3. Failure to Obtain Other Permits.** That issuance of this approval by
181 the City does not in any way create any right on the part of the Owner/Developer to obtain
182 a permit from a state or federal agency and does not create any liability on the part of the
183 City for issuance of the approval if the Owner/Developer fails to obtain the requisite

184 approvals or fulfill the obligations imposed by a state or federal agency or undertakes
185 actions that result in the violation of state or federal law. All applicable state and federal
186 permits must be obtained before commencement of the Development on the Subject
187 Property. This condition is included pursuant to Section 166.033, Florida Statutes, as
188 amended.

189
190 **SECTION 4. Conditions.**

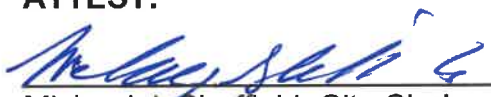
- 191
192 1) Boat slips shall be usable prior to occupancy, acquiring any dredging
193 permits as needed. Owner/Developer shall continually maintain the slips
194 to ensure usability per the approved Site Development Plan parking
195 requirements.
196
197 2) The adjacent twelve (12) space parking lot shall be gated and only used
198 for restaurant staff and/or valet parking.
199

200 **SECTION 5. Failure to Adhere to Resolution.** That failure to adhere to the
201 approval terms and conditions contained in this Resolution shall be considered a violation
202 of this Resolution and the City Code, and persons found violating this Resolution shall be
203 subject to the penalties prescribed by the City Code, including but not limited to the
204 revocation of any of the approval(s) granted in this Resolution and any other approvals
205 conditioned on this approval. The Owner/Developer understands and acknowledges that
206 it must comply with all other applicable requirements of the City Code before it may
207 commence construction or operation, and that the foregoing approval in this Resolution
208 may be revoked by the City at any time upon a determination that the Owner/Developer
209 is in non-compliance with the City Code.
210

211 **SECTION 6. Effective Date.** That this Resolution shall take effect immediately
212 upon adoption.
213

214 ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 23rd day
215 of JANUARY, 2023.
216

217 **ATTEST:**

218 
219 _____
220 Michael J. Sheffield, City Clerk

CITY OF MARCO ISLAND, FLORIDA

By: 

Gregory Folley, Chairman

221
222 Approved as to form and legal sufficiency:

223 
224 _____
225 Alan L. Gabriel, City Attorney
226

227 This Resolution was filed with the City Clerk for the City of Marco Island on this 6th day
228 of February 2023.

