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RESOLUTION 24-09

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING A CONDITIONAL USE PERMIT APPLICATION TO ALLOW A FITNESS CENTER USE AT 137 SOUTH BARFIELD DRIVE, MARCO ISLAND, FLORIDA; MAKING FINDINGS; PROVIDING FOR CONDITIONS OF APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 30-64 of the City of Marco Island (“City”) Land Development Code (“LDC”), the City’s Growth Management staff has reviewed and recommended approval of a conditional use for 137 South Barfield Drive, Marco Island, Florida (the “Subject Property”) pursuant to Section 30-224(3) of the LDC, for the approval of a Pilates fitness studio use (the “Conditional Use”); and

WHEREAS, Island Pilates Studio, LLC, the Lessee, submitted an application, CUP-23-000435, for the Conditional Use on the Subject Property; and

WHEREAS, the proposed Conditional Use is compatible with adjacent properties and will not adversely affect the public interest; and

WHEREAS, the proposed Conditional Use is consistent with the City of Marco Island Comprehensive Plan; and

WHEREAS, the proposed Conditional Use would not negatively impact the traffic flows into, and off the site; and

WHEREAS, the proposed Conditional Use will meet all required commercial zoning regulations, and will not change the character of the neighborhood or community as a whole; and

WHEREAS, City staff has reviewed and recommended approval of CUP-23-000435; and

WHEREAS, the City’s Planning Board has reviewed and recommended approval of Conditional Use application CUP-23-000435; and

WHEREAS, the City Council finds that the Conditional Use petition meets 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:

46 **SECTION 1. Recitals.** That the foregoing “WHEREAS” clauses are ratified
47 and confirmed as being true and correct and are made a specific part of this Resolution.
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49 **SECTION 2. Adoption and Approval.** The Conditional Use Permit CUP-23-
50 000435 for the Subject Property is hereby approved, subject to the conditions in Section
51 3. of this Resolution.
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53 **SECTION 3. Conditions of Approval.** Approval of the Conditional Use Permit
54 CUP-23-000435 for the Subject Property is granted subject to the following conditions of
55 approval:
56

- 57 a. The Conditional Use approval shall expire 365 days from the
58 effective date of this Resolution if construction/use has not
59 commenced.
- 60 b. The Lessee(s) are required to submit a Commercial Land-Use
61 Certificate application before occupying the building for
62 commercial purposes and/or allowing students on-site.
63

64 **SECTION 4. Development Permit does not grant a vested right.** The issuance
65 of this approval and Development Permit as defined in Section 163.3164, Florida
66 Statutes, by the City, does not in any way create any right on the part of the
67 Owner/Developer to obtain a permit from a state or federal agency and does not create
68 any liability on the part of the City for issuance of the approval if the Owner/Developer
69 fails to obtain the requisite approvals or fulfill the obligations imposed by a state or federal
70 agency or undertakes actions that result in the violation of state or federal law. All
71 applicable state and federal permits must be obtained before commencement of the
72 Development as authorized herein. This condition is included pursuant to Section
73 166.033, Florida Statutes, as amended.
74

75 **SECTION 5. Failure to Comply With Resolution.** That failure to adhere to the
76 Conditional Use approval and the approval terms and conditions contained in this
77 Resolution shall be considered a violation of this Resolution and the City Code, and
78 persons found violating this Resolution shall be subject to the penalties prescribed by the
79 City Code. The Owner/Developer understands and acknowledges that it must comply
80 with all other applicable requirements of the City Code before they may commence
81 construction or operation, and that the foregoing approval in this Resolution may be
82 revoked by the City at any time upon a determination that the Owner/Developer is in non-
83 compliance with the City Code.
84

85 **SECTION 6. Effective Date.** This Resolution shall be effective immediately upon
86 adoption.
87

88 ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 4th day of
89 March 2024.
90
91

CITY OF MARCO ISLAND, FLORIDA

By: _____
Jared Grifoni, Chairman

ATTEST:

Joan Taylor, City Clerk

Approved as to form and legal sufficiency:

Alan L. Gabriel, City Attorney

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