

## RESOLUTION 24-34

**A RESOLUTION OF THE MARCO ISLAND CITY COUNCIL, APPROVING VARIANCE PETITION VP 23-000403; PROVIDING FOR A VARIANCE FROM SECTION 30-441(G), OF THE CITY OF MARCO ISLAND LAND DEVELOPMENT CODE, FOR THE PROPERTY LOCATED AT 588 BALD EAGLE DRIVE, MARCO ISLAND, FLORIDA 34145, CONSISTENT WITH SECTION 30-85 OF THE CITY OF MARCO ISLAND LAND DEVELOPMENT CODE; PROVIDING FOR FINDINGS AND CONDITIONS OF APPROVAL; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 30-65, of the Marco Island Land Development Code (“LDC”) provides standards and regulations for the review and approval of variance procedures; and

**WHEREAS**, VO Capital LLC, (the “Owner”), submitted a Variance Petition (VP-23-000403) for the property located at 588 Bald Eagle Drive, Marco Island, Florida 34145 (the “Subject Property”); and

**WHEREAS**, the Subject Property is legally described as follows:

Marco Beach, Unit 6, that portion of Tract D as described OR 4137  
PG 3415  
Property ID# 57360200108

**WHEREAS**, This Subject Property is a corner lot abutting residentially zoned property on the south and west, requiring a 25-foot setback from all sides, which is being met, and the Subject Property is unique as the adjacent residentially zoned property is a cemetery and does not contain any single-family structures. Furthermore, the Subject Property sits well below the abutting property (cemetery).

**WHEREAS**, the special conditions related to the land are not due to actions of the applicant; and

**WHEREAS**, the requested variances are the minimum required to make the designed layout work. The required landscape plant material will follow the required number, just a narrower buffer; and

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

**WHEREAS**, granting the variance will be in keeping intent and purpose of this section of our zoning code since they are meeting the required amount of landscape plant material specified, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; and

**WHEREAS**, granting this variance does not conflict with the City of Marco Island Comprehensive Plan; and

**WHEREAS**, the City of Marco Island (“City”) staff has reviewed the application for the variance, and recommends approval; and

**WHEREAS**, the City’s Planning Board reviewed and recommended approval of Variance Petition VP 23-000403 at the City Planning Board’s June 7, 2024 meeting; and

**WHEREAS**, City Council finds that the Variance Petition meets the requirements of the City’s LDC, and does hereby approve Variance Petition VP 23-000403, 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 23-000403 meets the requirements of Section 30-65(g)(3) of the City of Marco Island Land Development Code, and hereby approves the variances to Section 30-441(g) landscape buffer, of the City of Marco Island Land Development Code for the Subject Property, subject to the below conditions:

1. That SDP 23-000398 is null and void if the City Council does not approve this variance request, 23-000403.

**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 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 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 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 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 22<sup>nd</sup> day of July 2024.

**ATTEST:**

**CITY OF MARCO ISLAND, FLORIDA**

\_\_\_\_\_  
Joan Taylor, City Clerk

By: \_\_\_\_\_  
Jared Grifoni, Chairman

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Alan L. Gabriel, City Attorney