

RESOLUTION 24-17

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING VARIANCE PETITION REQUEST (SEAW-23-05362) PURSUANT TO SEC. 6-38(C) OF THE MARCO ISLAND ADMINISTRATIVE CONSTRUCTION CODE FOR THE PROPERTY LOCATED AT 990 NORTH BARFIELD DRIVE, MARCO ISLAND, FLORIDA 34145 AND GRANTING THE VARIANCE TO SEC. 6-85(G) OF THE CITY OF MARCO ISLAND ADMINISTRATIVE CONSTRUCTION CODE TO PERMIT THE CONSTRUCTION OF A SEAWALL CAP AT THE PROPERTY UP TO AN ELEVATION OF 5.5' N.A.V.D.; PROVIDING FOR FINDINGS AND CONDITIONS OF APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 6-38, of the Marco Island Administrative Construction Code (“ACC”) provides standards and regulations for the review and approval of variance petitions; and

WHEREAS, Collier County, owner, (“Owner”), submitted a Variance Petition for 990 North Barfield Drive, Marco Island, Florida 34145 (the “Subject Property”); and

WHEREAS, the Subject Property is legally described as follows:

Marco Beach, Unit 4, Replat of Block 781, Lot 1
Parcel No. 57140040009

; and

WHEREAS, the existing building has hurricane damage, and pursuant to recent geotechnical data, there are also voids under the existing structure which can cause the building slab to collapse; therefore, the site will be razed and redeveloped to meet the current requirements of the Florida Building Code and the City of Marco Island’s Land Development Code (“LDC”); and

WHEREAS, due to the size of the site (0.9-acres) and the redevelopment needs of the governmental agencies, the stormwater management system has been designed to be a combination of both surface level water management (dry detention area) and underground vaults, which allows for maximum development potential of the property. The underground vaults will be constructed along the western and southern property lines, underneath planned parking areas; and

WHEREAS, pursuant to the requirements of the City of Marco’s Code of Ordinances Section 6-85, the top of cap of a seawall cannot exceed a height of 4.2’, and the control elevation of the site is 3’ NAVD; therefore, stormwater management must be

designed at 4' NAVD (1' above the control elevation); which would only allow 0.2' or 2.4-IN for stormwater storage.

WHEREAS, to meet code requirements for a maximum seawall height of 4.2', the site design would include the construction of a retaining wall and 100% surface level water management (no vaults), resulting in the loss of the southernmost boat/trailer parking / maintenance area and the entire vehicular parking area along the western property line. Without functional operations or areas for these governmental services, which includes areas for emergency pick-ups, this site cannot provide the necessary essential or possibly life-saving services for the community; and

WHEREAS, the granting of the variance request to allow for the construction of a seawall cap at the Subject Property at an elevation of 5.5' N.A.V.D. will not confer the petition any special privilege that is denied by the technical codes to other buildings, structures or service systems within the same zoning district. In fact, the adjacent utility site was also granted a variance to increase the maximum seawall height due to topography differences. Granting the variance will allow the governmental agency site to be redeveloped as needed to serve the community; and

WHEREAS, the variance being requested is the minimum variance needed to redevelop the site.; and

WHEREAS, due to the size of the site (0.9-acres) and the redevelopment needs of the governmental agencies, the stormwater management system has been designed to be a combination of both surface level water management (dry detention area) and underground vaults, which allows for maximum development potential of the property. The underground vaults will be constructed along the western and southern property lines, underneath planned parking areas. Pursuant to the requirements of the City of Marco Island Code of Ordinances, Section 6-85, the top of cap of a seawall cannot exceed a height of 4.2'. The control elevation of the site is 3' NAVD; therefore, stormwater management must be designed at 4' NAVD (1' above the control elevation); which would only allow 0.2' or 2.4-IN for stormwater storage; and

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

WHEREAS, City Council does hereby approve Variance Petition, 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 meets the requirements of Section 6-38(c) of the City of Marco Island Administrative Construction Code and hereby approves the variance to permit the construction of the seawall cap at the Subject Property up to an elevation of 5.5' N.A.V.D, subject to all conditions contained herein.

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 22nd day of April 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