

RESOLUTION 19-XX

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING A CONDITIONAL USE APPLICATION FOR A SEAWALL CUT-IN IN CONJUNCTION WITH A NAUTICAL GARAGE, ON LOT 3, BLOCK 128, MARCO BEACH UNIT FOUR, ACCORDING TO THE PLAT THEROF AS RECORDED IN PLAT BOOK 6, PAGES 32 THROUGH 37, PUBLIC RECORDS OF COLLIER COUNTY, LOCATED AT 1216 ORANGE COURT, MARCO ISLAND FLORIDA 34145 (CUP-18-006283); MAKING FINDINGS; APPROVING THE SITE CONDITIONAL USE PERMIT; REQUIRING THAT ALL FEDERAL AND STATE PERMITS ARE OBTAINED BEFORE COMMENCING DEVELOPMENT; PROVIDING FOR FAILURE TO COMPLY WITH APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article II, Conditional Uses in the Marco Island Land Development Code provides standards and regulations for the review and approval of conditional use applications; and

WHEREAS, Cape Trafalgar II, LLC, a Florida Corporation, submitted a conditional use application for the Development of a seawall cut-in and nautical garage on a lot with an area of approximately 0.25-acres at 1216 Orange Ct., Marco Island, Florida 34145; and

WHEREAS, the City's Planning Board reviewed and recommended disapproval of the conditional use application on April 5, 2019; and

WHEREAS, the City Council does hereby approve the conditional use application CUP-18-006283, 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:

SECTION 1. Recitals; Definitions.

(a) That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Resolution.

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

(1) "City" means the City of Marco Island, a Florida Municipal Corporation.

(2) "Development" is defined as set forth in Section 163.3164, Florida Statutes.

(3) "Development Permit" is defined as set forth in Section 163.3164, Florida Statutes.

(4) "Land Development Code" or "LDC" means the Land Development Code which consists of Chapter 30, Code of Ordinances of the City of Marco Island.

(5) "Owner/Developer" means Cape Trafalgar II LLC, a Florida Corporation, its successors and assigns, as owners or developers of the Subject Property.

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

Lot 3, block 128, Marco Beach unit four, according to the plat thereof as recorded in plat book 6, pages 32 through 37, public records of Collier County

(7) "Conditional Use Permit" means the 25 page document, including:

(A) The five (5) page Site Plan documents prepared by Dave Wainscott Designs of Naples, FL, prepared under Job No. 2018 dated September 12, 2018 with no revision date, including Sheet A1 – Site Plan and Notes, Sheet A2 – Front and Rear Elevations, Sheet A3 – Side Elevations, Sheet A4 – Ground Floor Plan, and Sheet A5 – First Floor Plan; and

(B) The one page lot aerial created from Collier County Property Appraiser GIS database

(C) The eleven-page Flushing Report prepared by Humiston & Moore Engineers of Naples, FL, under Job No. HM 28-044 dated March 15, 2019, with no date of revision; and

(D) The eight-page Garage Door Product Approval prepared by Scott A. Brown, P.E., of Dixon, IL, dated October 11, 2017, with no date of revision.

All of the foregoing approved documents are on file in the City's Department of Growth Management.

SECTION 2. Adoption. The Owner/Developer's Conditional Use permit for the Subject Property is hereby approved. The Conditional Use permit is approved subject to the following condition of approval:

Prior to submission of a building permit application, the Owner/Developer must survey the Subject Property for Burrowing Owls and their burrows. If burrowing owls or burrowing owl burrows are found on the Subject Property, the FWC must be contacted for management guidelines and issuance of any required permits to take the owls or their burrows. If burrowing owls or burrowing owl burrows are found on the Subject Property, the Owner/Developer must include the survey with the building permit application and indicate that the appropriate state permit is being pursued for taking, removal, relocation or protection of the listed species onsite. If burrowing owls or active owl burrows are found on the Subject Property, a management plan for a protection zone during construction shall be submitted for review and approval by the Director of Community Affairs for the management of on-site habitat and wildlife, including measures for protection and/or relocation of the species, if permitted. Such plans shall comply with current federal, state and local policies. The City may consider and utilize recommendations and letters of technical assistance of the FWC, and recommendations and guidelines of the USFWS, in issuing developmental orders on property containing wildlife species of special status.

Provide a copy of the SFWMD/DEP ERP prior to construction.

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. 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 3rd day of June 2019.

ATTEST:

CITY OF MARCO ISLAND, FLORIDA

Laura M. Litzan, City Clerk

By: _____
Erik Brechnitz, Chairman

Approved as to form and legal sufficiency:

Alan L. Gabriel, City Attorney