

EXHIBIT A

MARCO BEACH HOTEL

A

PLANNED UNIT DEVELOPMENT

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AND
LIST OF EXHIBITS**

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LIST OF EXHIBITS

EXHIBIT A – PUD MASTER PLAN

STATEMENT OF COMPREHENSIVE PLAN CONSISTENCY AND SHORT TITLE

The Marco Beach Hotel Planned Unit Development (the PUD) sets forth the development regulations to be applicable to the lands and improvements described herein (the Property), consisting of approximately 10.425 acres of land located on South Collier Boulevard in the City of Marco Island, Florida.

By the adoption of this PUD the City specifically finds and determines that all future development and/or redevelopment of the Property (as defined herein) in accordance with this PUD (the Project) is consistent and in conformance with the City of Marco Island Comprehensive Plan (hereinafter the City Comprehensive Plan). The factors upon which this consistency determination is made includes, but is not limited to, the following:

- A. The Project is consistent with Objective 1.1. of the Future Land Use Element (FLUE) of the City Comprehensive Plan requiring all new land uses to be consistent with the Future Land Use Map (FLUM).
- B. The Property is located within the Resort Residential District as described on the FLUM and the Future Land Use policy 3.1.5 (Resort Residential), which allows for hotel and residential uses, including the resort hotel and commercial parking authorized by this PUD.
- C. The Project, as proposed, is compatible with adjacent land uses and includes adequate buffering where dissimilar land uses are located adjacent to each other.
- D. The Project is not anticipated to cause or result in the Levels of Service (LOS) for any public facility to drop below the LOS adopted for such facility.
- E. The Project is consistent with Policies 1.1.1 and 3.1.5 of the FLUE and the definitions section of the City's Comprehensive Plan in that the maximum permitted hotel units is less than that which is authorized in the City's Comprehensive Plan and Land Development Code for the subject site, specifically, policy 3.1.5 (Resort Residential), unlike policies 3.2.3 (Village Commercial), 3.2.4 (Community Commercial), and 3.2.5 (Town Center Mixed-Use) does not have a maximum limit for hotel densities. Instead, policy 3.1.5 (Resort Residential) allows 16 dwelling units per acre. There is no upward limit of hotel rooms in Resort Residential (as is the case in Village Commercial, Community Commercial, and Town Center Mixed-Use), and the total number of hotel rooms is regulated by other policies in the Comprehensive Plan, such as LOS. Therefore, the number of hotel rooms authorized by this PUD is consistent with the Comprehensive Plan.
- F. The Project is consistent with Policy 1.8.1 of the FLUE in that it provides for the development of improvements to South Collier Boulevard that are intended to enhance pedestrian and bicycle facilities.
- G. The project is consistent with Policy 1.1.3 of the Transportation Element of the City's Comprehensive Plan in that it is intended to promote improved pedestrian and bicycle facilities, which are ADA compliant.

- H. The project is consistent with Policy 1.2.3 of the Transportation Element of the City's Comprehensive Plan in that it mitigates for traffic impacts, both on and off- site.
- I. The project is consistent with Policy 1.3.4 of the Potable Water Sub-Element of the Infrastructure Element of the City's Comprehensive Plan in that the PUD requires the property owner to install the necessary infrastructure to utilize reclaimed water for irrigation and to negotiate with Marco Island Utilities to develop an agreement for such usage.
- J. The project is consistent with Policies 3.1.1 through 3.1.3 of the Stormwater Management Sub-Element of the Infrastructure Element of the City's Comprehensive Plan in that the Project will be designed to meet current stormwater management regulations for quantity discharge and water quality.
- K. The project is consistent with Policy 1.5.2. of the Conservation Element of the City's Comprehensive Plan in that the PUD will adhere to all local and state statutes regarding the protection of threatened and endangered sea turtle nests, and the Owner shall perform dune improvements and will provide educational materials related to the importance of healthy dune ecosystems to visitors.

SHORT TITLE

This Ordinance shall be known and cited as the Marco Beach Hotel PUD.

SECTION ONE: PROPERTY OWNERSHIP AND DESCRIPTION

1.1 PURPOSE

The purpose of this Section is to set forth the legal description, ownership and location of the Property, and to describe the existing conditions of the Property.

1.2 PROPERTY DESCRIPTION

The Property is located in Sections 17 and 18, Township 52 South, Range 26 East, Marco Island, Florida. The Property is located northwest of the intersection of S. Collier Blvd and Winterberry Drive. The Property is developed with an existing resort style hotel with 310 guest rooms, associated amenities, and parking areas.

The Property is located along the Gulf of Mexico, fronts along S. Collier Blvd. to the east and is located northwest of the intersection of S. Collier Blvd and Winterberry Drive. Directly abutting the Property to the south, and along S. Collier Blvd, are existing RT zoned properties that are developed with interval ownership land uses and to the east are C-3 zoned properties that are developed with a mix of existing retail commercial, restaurants and offices.

1.3 LEGAL DESCRIPTION OF THE PROPERTY

A parcel of land lying in Sections 17 and 18, Township 52 South, Range 26 East, Collier County, Florida, and being more particularly described as follows:

COMMENCE at the intersection of the centerlines of South Collier Boulevard and Winterberry Drive, as shown on the plat of MARCO BEACH UNIT 7, as recorded in Plat Book 6, pages 55 through 62 inclusive of the Public Records of Collier County, Florida; thence $S10^{\circ} 47' 18''E$ along the centerline of South Collier Boulevard, a distance of 19.04 feet; thence $S79^{\circ} 12' 42''W$, a distance of 50.00 feet to a concrete monument; said concrete monument being on the Westerly Right-of-Way Line of the aforementioned South Collier Boulevard, said point being the POINT OF BEGINNING of the hereinafter described property; thence $S86^{\circ} 13' 24''W$, a distance of 703.92 feet to a concrete monument; thence continue $S86^{\circ} 13' 24''W$, a distance of 141 feet more or less to a point hereafter known as Point "A" and the Mean High Water Line (elevation +1.5 contour) of the Gulf of Mexico as it existed December 22, 1980, thence return to the aforementioned POINT OF BEGINNING; thence $N10^{\circ} 47' 18''W$, a distance of 603.67 feet along said Westerly Right-of-Way Line of South Collier Boulevard to a concrete monument; thence leaving said Right-of-Way Line $S79^{\circ} 12' 42''W$, a distance of 648.91 feet to a concrete monument; thence continue $S79^{\circ} 12' 42''W$, a distance of 154 feet, more or less, to the Mean High Water Line (elevation +1.5 contour) of the Gulf of Mexico as it existed December 22, 1980; thence meander in a Southerly direction along said Mean High Water Line (elevation +1.5 contour) 502 feet, more or less, to the aforementioned Point "A" and the POINT OF TERMINATION.

Containing 10.425 acres, more or less. (the "Property")

1.4 PROPERTY OWNERSHIP

At the time of adoption of this PUD, beneficial title to the Property is vested in **MARCO BEACH HOTEL, INC.**

SECTION TWO: LEGISLATIVE INTENT:

In adopting this PUD, the City recognizes that the existing resort hotel located on the Property is a substantial economic and social asset to the City, and also recognizes that the development of the Property in conformance with this PUD will result in the following benefits to the community:

- A. Reinvestment in a longstanding hotel.
- B. Improvements to the roadways, intersections, and traffic signal, adjacent to and nearby the Property.
- C. Improvements to pedestrian safety.
- D. Improvements and ongoing maintenance for median landscaping along the Property's South Collier Boulevard frontage.

- E. Additional resources for the City and for environmental groups for City personnel and City vehicle parking during hurricane related states of emergency and beach monitoring.
- F. Improvements to the dunes on Property and addition of educational materials.
- G. Improvements to trash receptacles at the nearby beach access.
- H. Addition of a bike rack at the nearby beach access.
- I. Addition of a shower at the nearby beach access.

SECTION THREE: GENERAL DEVELOPMENT REGULATIONS

3.1 PURPOSE

The purpose of this Section is to establish the general development regulations applicable to the development of the Property, and the relationship of these regulations to other applicable City Ordinances.

3.2 GENERAL

- A. From and after the adoption of this PUD Ordinance, all development on the Property shall be in accordance with the development regulations set forth in this document and any other applicable provisions of the City of Marco Island Land Development Code (the LDC), the City Comprehensive Plan and other ordinances of the City. The PUD document is the prevailing ordinance governing the zoning, development and redevelopment of the Property. In the event of a conflict between the development regulations contained in this PUD, any amendments thereto, and other ordinances of general application, including the LDC, the provisions of this PUD ordinance shall prevail. Should the PUD be silent on a particular matter, the LDC or other ordinances of general application shall apply. Unless otherwise noted, the definitions of all terms shall be the same as the definitions set forth in the LDC in effect at the time of building permit application.
- B. The Property is located outside an area of historic/archaeological probability. Therefore, no historic/archaeological survey and assessment is required. Pursuant to Section 30-387 (e) of the LDC, the desirable natural, historic, or archaeological features of the site including trees and other vegetation of consequence of the PUD shall be preserved and protected.

SECTION FOUR: DEVELOPMENT STANDARDS

4.1 USES PERMITTED

No building or structures or part thereof, shall be erected, altered or used, or land uses, in whole or in part, for other than the following:

A. Permitted Uses:

The following uses are permitted as of right:

1. Hotels and transient lodging (7011). The term “transient lodging” includes hotels, interval ownership/membership and vacation rental/membership facilities. Any such transient lodging shall include the following operational characteristics and/or limitations: lodging accommodations normally on a daily or weekly rate to the general public or to interval owners/members and provisions for check in and housekeeping services, as well as other amenities such as dining facilities, meeting rooms, or recreational facilities.
 - (a) For the purposes of calculating hotel density within this PUD, the following conditions shall be met to exceed 26 hotel units per acre:
 - (1) All required off-street parking is provided within the PUD and all required off-street parking is not separated by a collector or arterial roadway;
 - (2) All hotel guestrooms are constructed in a tower or towers of varying heights. All such tower elements shall be oriented such that a view corridor is maintained above the building height of the lobby portion of the hotel structure which is not considered a tower;
 - (3) The PUD shall include a dune system with native dune plant species adjacent to the beach.
2. Parking lots and garages (Group 81293), which may include valet parking.
3. Administrative and support services (Groups 56111, 56141, 56144, 56145, and 561492).
4. Multiple-family dwellings.
5. Family care facilities, subject to the Land Development Code.
6. Timeshare facilities.
7. Townhouses, subject to the Land Development Code.

B. Accessory Uses:

Accessory uses and structures permitted as of right are those customarily associated with the permitted principal uses and structures including but not limited to:

1. Health Spa.
2. Sports and recreational facilities
3. Swimming Pools
4. Parking facilities, which may include valet parking.
5. Retail shops, personal service establishments, restaurants and/or lounges, dancing and staged entertainment facilities, meeting rooms and ballrooms, and other amenities where such uses are an integral part of a hotel and are used wholly or partially by the patrons of the hotel.
6. Any other accessory use which is comparable in nature with the foregoing list of permitted accessory uses, as determined by the City Council.

4.2 DIMENSIONAL STANDARDS

The standards for land uses within the PUD shall be as stated in the Development Standards table below. Standards not specifically set forth herein shall be those specified in applicable sections of the LDC in effect as of the date of approval of a site development plan (SDP) or subdivision plat.

TABLE I: DEVELOPMENT STANDARDS

| | PRINCIPAL USES | ACCESSORY USES |
|--|-------------------------------------|-------------------------------------|
| MIN. LOT AREA | 43,560 S.F. | N/A |
| MIN. LOT WIDTH | 150 FEET | N/A |
| MINIMUM YARDS (EXTERNAL – MEASURED FROM THE PUD BOUNDARY) | | |
| NORTH PROPERTY LINE ¹ | 25/50 FEET | SPS |
| SOUTH PROPERTY LINE ¹ | 25/50 FEET | SPS |
| EAST PROPERTY LINE ² | 50/75 FEET | SPS |
| WEST PROPERTY LINE | 30 FEET | SPS |
| MIN. DISTANCE BETWEEN STRUCTURES | 15 FEET OR AS REQUIRED BY FIRE CODE | 10 FEET OR AS REQUIRED BY FIRE CODE |
| MAX. BUILDING HEIGHT ³ | 150 feet | SPS |

SPS = Same as Principal Structures; S.F. = Square Feet

¹ The required setback from the North and South property lines shall be 25 feet for the first 3 floors. Portions of structures, except as identified within LDC Section 30-1004 – Exceptions to Required Yards, that exceed 3 floors shall be stepped back with a required setback of 50 feet.

² The required setback from the East property line shall be 50 feet for the first 7 floors. Portions of structures, except as identified within LDC Section 30-1004 – Exceptions to Required Yards, that exceed 7 floors shall be stepped back with a required setback of 75 feet.

³ Building height as defined by LDC Section 30-10 – Definitions.

4.3 MAXIMUM RESIDENTIAL DENSITY AND/OR HOTEL GUESTROOMS PERMITTED

The maximum residential density shall be 16 residential dwelling units per acre, and the maximum hotel guestrooms shall be 626 hotel guestrooms, provided the requirements of Section 4.1.A.1.a – Uses Permitted of this PUD Document are met, otherwise the maximum hotel guestrooms shall be 26 hotel guestrooms per acre. For the purposes of this PUD, each hotel guestroom shall not be considered a dwelling unit. For any mixture of residential density and hotel guestrooms for the project, the density and maximum hotel guestrooms shall be based on the acreage attributed to each of those uses as described in this section and as provided in Section 4.1.A.1.a.

4.4 OFF-STREET PARKING

The off-street parking requirements for the PUD shall be 10 spaces per 10 guestrooms. Accessory uses, with the exception of restaurants, lounges, ballrooms and meeting rooms, shall not be required to provide additional off-street parking. Restaurants, lounges, ballrooms and meeting rooms shall be required to provide 20 percent of the otherwise required off-street parking spaces contained within the LDC.

4.5 LANDSCAPING AND BUFFERS

Landscaping and buffers shall be as provided in the LDC.

4.6 SIGNS

As provided in the LDC.

SECTION FIVE: DEVELOPMENT COMMITMENTS

5.1 GENERAL

- A. Pursuant to Section 166.033(6) F.S., issuance of a development permit by a municipality does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.
- B. Development of the Property shall be in accordance with the contents of this Ordinance and applicable sections and parts of the LDC and Comprehensive Plan in effect at the time of issuance of any development order, such as, but not limited to final subdivision plat, final site development plan (SDP), excavation permit, and preliminary work authorization, to which such regulations relate. Where these regulations fail to provide developmental standards, then the provisions of the most similar district in the LDC shall apply.
- C. All other applicable state or federal permits must be obtained before commencement of the development.
- D. The Owner shall redesign and modify the existing parking lot lighting system in the parking areas in compliance with the outdoor lighting regulations of the City code.

5.2 TRANSPORTATION

- A. The maximum total daily trip generation for the PUD shall not exceed 294 two-way PM peak hour net trips based on the use codes in the ITE Manual on trip generation rates in effect at the time of application for SDP/SDPA or subdivision plat approval.

5.3 UTILITIES:

- A. Water service is available via Marco Island Utilities. The Owner is responsible to provide both potable water and fire-fighting capability to the property.
- B. Sewer service is available via Marco Island Utilities. The Owner is responsible for providing the necessary connections to supply the Property with central sewer service.
- C. All water/sewer facilities extended to the Property and which lie within City public rights-of-way and/or easements shall be owned and maintained by Marco Island Utilities. Such facilities, whether owned by Marco Island Utilities/or privately owned, shall be reviewed and installed in accordance with established Marco Island Utilities requirements.

5.4 OPEN SPACE

- A. The Property shall contain no less than 30% open space as defined in the LDC.

5.5 ENVIRONMENTAL:

- A. The Property shall be in compliance with all local and state statutes regarding the protection of threatened and endangered sea turtle nests as stipulated in the Marco Island Code of Ordinances, Chapter 54, Sections 141-150.

5.6 HOTEL REDEVELOPMENT COMMITMENTS

- A. Before the issuance of a certificate of occupancy or completion for any site plan or building permit issued for additional hotel units, whichever occurs first, pursuant to this Ordinance, Owner shall contribute to the City of Marco Island the lesser of actual cost or \$35,000.00 to update the intersection controller for the intersection at South Collier Boulevard and Winterberry Drive.
- B. Before the issuance of a certificate of occupancy or completion for any site plan or building permit issued for additional hotel units, whichever occurs first, pursuant to this Ordinance, Owner shall contribute to the City of Marco Island the lesser of actual cost or \$600,000.00 to repave and restripe Winterberry Drive between South Collier Boulevard and Heathwood Drive, or to provide a shared use path on Winterberry Drive between South Collier Boulevard and Heathwood Drive.
- C. Before the issuance of a certificate of occupancy or completion for any site plan or building permit issued for additional hotel units, whichever occurs first, pursuant to this Ordinance, Owner shall provide bike racks for the current beach access location to the South of the PUD provided by the Owner to the City and installed in the current beach access location to the South of the PUD.
- D. Before the issuance of a certificate of occupancy or completion for any site plan or building permit issued for additional hotel units, whichever occurs first, pursuant to this Ordinance, Owner shall contribute to the City of Marco \$5,000.00 for the construction by the City of Marco Island of a shower at the beach access location to the South of the PUD, provided such an improvement is able to be legally permitted.

- E. Before the issuance of a certificate of occupancy or completion for any site plan or building permit issued for additional hotel units, whichever occurs first, pursuant to this Ordinance, Owner shall relandscape all medians adjacent to the Property, as shown on Exhibit A of the PUD (Hotel Median), and shall be obligated to maintain all landscaping in the Hotel Median. This commitment shall not include installation or maintenance of any irrigation system(s) or any curbs, roadway, or drainage facilities.
- F. Before the issuance of a certificate of occupancy or completion for any site plan or building permit issued for additional hotel units, pursuant to this Ordinance, Owner shall contribute the lesser of actual costs or \$60,000.00 to upgrade pedestrian crosswalk safety by adding a rapid flashing beacon to the existing mid-block pedestrian crosswalk adjacent to the Property on South Collier Boulevard, as shown on Exhibit A of the PUD.
- G. Upon receipt of a certificate of occupancy or completion for a parking garage, an allowance for parking of City vehicles and City staff personal vehicles, within the parking garage, during a declared state of emergency for hurricanes when the hotel is closed, provided the City of Marco Island enters into an indemnification and hold harmless agreement whereby the City agrees to, without waiving statutory sovereign immunity waiver limits, indemnify and hold harmless the Owner for the City's and City's staff use of the parking garage during hurricane events.
- H. Upon receipt of a certificate of occupancy or completion for a parking garage, an allowance for parking of a vehicle by a City approved environmental group, within the parking garage, provided the City of Marco Island enters into an indemnification and hold harmless agreement whereby the City agrees to, without waiving statutory sovereign immunity waiver limits, indemnify and hold harmless the Owner for the use of the parking garage by environmental groups.
- I. Before the issuance of a certificate of occupancy or completion for any site plan or building permit issued for additional hotel units, Owner shall perform Dune improvements to include the improvement and maintenance of the function and viability of the dune system located on the Property by removal of exotic vegetation and replanting and restoring with native dune plant species. Education materials related to the importance of healthy dune ecosystems shall also be provided for visitors.
- J. Before the issuance of a certificate of occupancy or completion for any site plan or building permit issued for additional hotel units, pursuant to this Ordinance, Owner shall provide public trash cans at the current beach access location to the South of the PUD, provided the City permits access for the purposes of installing the improved trash cans.