

ORDINANCE NO. 21 - ____

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING A RECORD PLAT FOR SAN MARCO HEALTH, A SUBDIVISION OF TRACT "A" OF A REPLAT OF TRACT "L", MARCO BEACH UNIT SIX, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 12, PAGE 56, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA, TO BE KNOWN AS SAN MARCO HEALTH, PROVIDING FOR FAILURE TO COMPLY WITH ORDINANCE PROVISIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS this Ordinance relates to a record plat for San Marco Health that is a resubdivision of property described as Tract "A" of a Replat of Tract "L", Marco Beach Unit Six, according to the plat thereof, as recorded in Plat Book 12, Pages 55 and 56, Public Records of Collier County, Florida, consisting of approximately 10 acres ("San Marco Health"); and

WHEREAS, the record plat shall be know as "San Marco Health, Tract A, Tract B and Track C"; and

WHEREAS, Tract A will consist of 5.09 acres, Tract B will consist of 3.04 acres, and Tract C will consist of 1.87 acres; and

WHEREAS, San Marco Health is zoned PUD and subject to Ordinance 21-06, as approved by the City Council on April 5, 2021; and

WHEREAS, after the notice of public hearing was duly published and notifications of all property owners of record within three hundred feet (300') of the San Marco PUD was provided, a public hearing was held before the Planning Board of the City of Marco Island, also sitting as the Local Planning Agency, on November 5, 2021, at which hearing all interested persons were afforded the opportunity to be heard; and

WHEREAS, Future Land Use Element, Policy 1.2.4 of the 2009 Marco Island Comprehensive Plan states that:

Any future subdivision of land which results in a net increase of lots shall be reviewed to ensure that the desired density conforms with prescribed limitations contained on the Future Land Use Map. Further, any proposed subdivision not currently abutting a public street shall be evaluated to promote an orderly physical pattern, to ensure an economically stable and healthy community, to ensure adequate public facilities to maintain the community's quality of life, to prevent periodic

47 and seasonal flooding, and to ensure the installation of
48 adequate and necessary public facilities and physical
49 improvements by the developer such that the citizens of
50 Marco Island will not have to bear the costs associated with
51 the proposed subdivision of land; and
52

53 **WHEREAS**, Future Land Use Element, Policy 2.1.3 of the 2040 Marco Island
54 Comprehensive Plan states that:
55

56 The City will enforce existing and future Land Development
57 regulations to eliminate and/or reduce uses of land
58 inconsistent with the Future Land Use Map; and
59

60 **WHEREAS**, Future Land Use Element, Objective 4.1 of the 2040 Marco Island
61 Comprehensive Plan states that:
62

63 Direct new growth and redevelopment to those areas of the City where
64 adequate public facilities exist, or are planned, and where compact and
65 contiguous development patterns can be created, and which are located
66 away from established low density residential neighborhoods; and
67

68 **WHEREAS**, Future Land Use Element, Policy 4.1.2 of the 2040 Marco Island
69 Comprehensive Plan states that:
70

71 Rezoning, conditional use, site improvement plans, and other
72 development proposals will be evaluated as to the availability and proximity
73 of the road network; central sewer and water lines; community facilities and
74 services such as schools, EMS, fire and police protection, and other public
75 facilities; compatibility with surrounding land uses; and any other relevant
76 facts affecting the public health, safety, and welfare.
77

78 **WHEREAS**, at the Planning Board public hearing, the City of Marco Island
79 Planning Board recommended approval of the San Marco Health Record Plat finding the
80 San Marco Health Record Plat to be consistent with the City of Marco Island
81 Comprehensive Plan, subject to conditions as contained herein.
82

83
84 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY**
85 **OF MARCO ISLAND, FLORIDA:**
86

87 **SECTION 1. Recitals; Exhibits.**

88 (a) The foregoing recitals ("WHEREAS" clauses) are hereby ratified and
89 confirmed as being true and correct and are hereby made a specific part of this
90 Ordinance.
91

(b) The exhibit attached hereto is by this reference incorporated herein. Said exhibit include: Exhibit A – “The San Marco Health Record Plat”;

SECTION 2. Conditions. The San Marco Health Record Plat is subject to Ordinance 21-06, approved by the City Council on April 5, 2021, which is incorporated herein by reference.

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 the City, a State of Florida, 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 local, 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 Ordinance.

(a) That failure to adhere to the terms and conditions contained in this Ordinance shall be considered a violation of this Ordinance and the City Code, and persons found violating this Ordinance shall be subject to the penalties prescribed by the City Code of Ordinances.

(b) Should the Owner/Developer of any particular Tract fail to comply with the provisions set forth in this Ordinance, the City may, but is not obligated to, withhold building permits and other Development Orders and Certificates of Occupancy, or Certificates of Completion, (all whether temporary or permanent in nature) for such Tract until such time as the particular Tract is brought into compliance.

(c) Any violation of this Ordinance, or attached exhibit to this Ordinance, is deemed to be a violation of the City Code of the City of Marco Island, Florida. The failure by the City to enforce a violation shall not waive said violation. Violations of this Ordinance may be prosecuted: (1) as a code enforcement violation pursuant to Sections 14-31 *et seq.* or 14-71 *et seq.*, Marco Island Code of Ordinances, as amended from time to time; (2) as a code enforcement violation as may be authorized from time to time by Chapter 162, Florida Statutes, as amended from time to time; (3) pursuant to Section 1-14, Marco Island Code of Ordinances, as amended from time to time; (4) by any legal or equitable action in a court of law.

SECTION 5. Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 6. Severability. In the event that any term, provision, clause, sentence or section of this Ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity,

138 illegality, or unenforceability shall not affect any of the other or remaining terms,
139 provisions, clauses, sentences, or sections of this Ordinance, and this Ordinance shall be
140 read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause,
141 sentence, or section did not exist.

142
143 **SECTION 7. Effective Date.** This Ordinance shall become effective upon
144 adoption.

145
146 Passed in open and regular session through roll call vote by the City Council of the
147 City of Marco Island, Florida, on First Reading the _____ day of _____, 20____,
148 and adopted on Second Reading the ____ day of _____, 20____.

149
150 CITY OF MARCO ISLAND, FLORIDA

151
152
153 By: _____
154 Jared Grifoni, Chair

155 ATTEST:

156
157 _____
158 LAURA M. LITZAN
159 City Clerk

160
161 Approved as to form and legal sufficiency:

162
163
164 _____
165 Alan L. Gabriel
166 City Attorney
167