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RESOLUTION 20-26

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING A SITE DEVELOPMENT PLAN FOR MCDONALD'S CORPORATION, A DELAWARE CORPORATION, LOCATED AT 899 NORTH COLLIER BOULEVARD, MARCO ISLAND; MAKING FINDINGS; PROVIDING DEFINITIONS; APPROVING THE SITE DEVELOPMENT PLAN; PROVIDING CONDITIONS OF APPROVAL; PROVIDING FOR FAILURE TO OBTAIN OTHER DEVELOPMENT PERMITS; PROVIDING FOR FAILURE TO COMPLY WITH APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article IX, Site Development and Site Development Plan Standards, Sections 30-671 through 30-680, of the Marco Island Land Development Code provides standards and regulations for the review and approval of site improvement plans; and

WHEREAS, the Owner/Developer submitted a Site Development Plan for the Development of restaurant and drive-thru lane at 899 North Collier Boulevard, Marco Island, Florida, on the Subject Property; and

WHEREAS, the City of Marco Island staff has reviewed and recommended approval of SDP-19-001024; and

WHEREAS, pursuant to Section 30-673(1) of the LDC, the Planning Board has reviewed documentation, if any, to evidence ownership and control of the Subject Property and the Development, as well as information regarding easements and related encumbrances, to substantiate the use and permanent maintenance of any required common open space, common facilities, conservation/preservation areas, and other similar common lands in order to ensure the preservation of such lands and facilities; and

WHEREAS, pursuant to Section 30-673(2) of the LDC, the Planning Board has reviewed the Site Development Plan for compliance with all appropriate zoning regulations and the comprehensive plan, ingress and egress to the proposed Development and its proposed improvements, provisions and designs for vehicular and pedestrian safety, separation of vehicular traffic from pedestrian and other traffic, traffic flow and control, traffic calming devices, provision of private and/or public utilities and refuse collection, and access in case of fire, catastrophe or other emergency; and

WHEREAS, pursuant to Section 30-673(3) of the LDC, the Planning Board has reviewed the location and relationship of parking and loading facilities with a goal to complement and optimize traffic conditions on city streets and internal traffic patterns within the proposed Development for vehicular and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, screening, and landscaping; and

47 **WHEREAS**, pursuant to Section 30-673(4) of the LDC, the Planning Board has
48 reviewed the adequacy of proposed or required recreational facilities, if any, and open
49 spaces considering the size, location, and development of these areas with regard to
50 effect on adjacent and nearby properties as well as uses within the proposed
51 Development, and the relationship to community-wide open spaces and recreation
52 facilities; and
53

54 **WHEREAS**, pursuant to Section 30-673(5) of the LDC, the Planning Board has
55 reviewed the adequacy of proposed landscape screens and buffers considering
56 preservation of the development's internal land uses as well as compatibility with
57 adjacent land uses; and
58

59 **WHEREAS**, pursuant to Section 30-673(6) of the LDC, the Planning Board has
60 reviewed the water management master plan or stormwater provisions and designs on
61 the property, considering adverse impacts on adjacent and nearby properties and the
62 consequences of such water management master plan or stormwater discharges on
63 overall city drainage capacities within and external to private and public drainage
64 easements and alley and road right-of-way; and
65

66 **WHEREAS**, pursuant to Section 30-673(7) of the LDC, the Planning Board has
67 reviewed signage, if any, proposed for the project for conformity with the LDC; and
68

69 **WHEREAS**, pursuant to Section 30-673(8) of the LDC, the Planning Board has
70 reviewed the architectural design of the building(s) for compliance with applicable LDC
71 requirements; and
72

73 **WHEREAS**, the City's Planning Board has reviewed and recommended approval
74 of the Site Development Plan as being in compliance with applicable LDC regulations on
75 July 10, 2020, *accord* Broward County v. G.B.V. International, Ltd., 787 So.2d 838 (Fla.
76 2001); and
77

78 **WHEREAS**, the City Council hereby adopts the findings of the Planning Board;
79 and
80

81 **WHEREAS**, the City Council does hereby approve the Site Development Plan
82 SDP – 19-001024, subject to the conditions of approval set forth in this Resolution.
83

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

87 **SECTION 1. Recitals; Definitions.**
88

89 (a) That the foregoing "WHEREAS" clauses are ratified and confirmed
90 as being true and correct and are made a specific part of this Resolution.
91

(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 McDonald's Corporation, a Delaware Corporation, Albert Lopez, and CPH, Inc., a Florida Corporation, and their respective successors and assigns, as owners or developers of the Subject Property.

(6) "Site Development Plan" means: the 6-page document entitled Site Improvement Plan Marco Island SBS McDonald's prepared by CPH, Inc., of Sanford, FL, Job No. M29627.1, dated August, 2019 with last date of revision being for: Sheet C-1 (Cover Sheet), July 27, 2020; Sheet C-2 (Site Plan), July 27, 2020; Sheet C-3 (Grading and Erosion and Sedimentation Control Plan), no last date of revision; Sheet C-4 (General Details), December 2, 2019; Sheet L-1 (Landscape Plan), August 5, 2020 signed; and Sheet L-2 (Landscape Plan) August 5, 2020 signed.

(7) "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:

Lots 2 and 3, Block 797, a Replat of Tract "A" Marco Beach Unit 6, according to the plat thereof, as recorded in Plat Book 12, Page 53-54, Public Records of Collier County, Florida.

(Said Legal Description has neither been reviewed nor examined by the City, Weiss Serota Helfman Cole & Bierman, P.L., Alan Gabriel, Esq., or Paul R. Gougelman, Esq.)

SECTION 2. Adoption. The Owner/Developer's Site Development Plan for the Subject Property is hereby approved. The Site Development Plan is approved subject to the following conditions of approval set forth in Section 3. of this Resolution.

SECTION 3. Conditions of Approval. The Site Development Plan is approved subject to the following condition of approval:

(a) Approval of this Site Development Plan is contingent upon approval of all variances as set forth in City Variance Petition 20-000140;

(b) The Owner/Developer and the contractor are required to provide evidence that the approximately 290 sq. ft. of pervious pavers were installed, or the pavers must be installed to satisfy the approved 2011 site development plan (SDP-11-000429) and maintained by the owner; and

(c) This approval is not for signage. All existing/proposed signage must meet current code and be permitted.

SECTION 4. 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 on the Subject Property. This condition is included pursuant to Section 166.033, Florida Statutes, as amended.

SECTION 5. 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 6. Effective Date. That this Resolution shall take effect immediately upon adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 17th day of August 2020.

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