

RESOLUTION 16-51

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA APPROVING A SITE DEVELOPMENT PLAN TO ALLOW FOR A 7,435 SQUARE FOOT BUILDING FOR DOLLAR GENERAL LOCATED AT 440 WEST ELKCAM CIRCLE, MARCO ISLAND, FLORIDA 34145; PROVIDING FOR CONDITIONS OF APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article IX, Site Development and Site Improvement Plan Standards, of the Marco Island Land Development Code provides standards and regulations for the review and approval of site development plans; and

WHEREAS, the Petitioner ("Richard Joudrey") on behalf of the Owner/Developer submitted Site Development Plan (SDP 16-000959) for the construction of a new 7,435 square foot building located at 440 West Elkcam Circle, Marco Island, Florida 34145 on the Subject Property; and

WHEREAS, the City of Marco Island staff have reviewed and recommend approval of SDP 16-000959 and the Site Development Plan; and

WHEREAS, the City's Planning Board has reviewed and recommended approval of the Site Development Plan, SDP 16-000959; and

WHEREAS, the City Council finds that the Site Development Plan meets the requirements of the City of Marco Island Code of Ordinances and should be approved, 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, THAT:

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

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

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

(3) "Owner/Developer" means Joseph Zgonina, Mary Catherine Fratini-Zgonina, and Charles E. Zgonina, as Co-Trustees of the Joseph E. Zgonina and Sandra A. Zgonina Grantor Irrevocable 2012 Grandchildren's Trust, its successors and assigns, as owner(s) in fee simple of the Subject Property or as developer(s) to which development rights have been assigned.

(4) "Petitioner" means Richard Joudrey.

(5) "Site Development Plan" means the fourteen page plan entitled Site Development Plans for 440 Elkcam Circle Retail prepared by Zaremba Group, LLC, of Lakewood, Ohio, and Avid Group of Palm Harbor, FL, under Project No. 648-003, being dated 3/14/2016, with last date of revisions as to: the Cover Sheet and Sheets 2 through 12 being 5/9/2016; Sheets L1 being 5/5/2016, and Sheet L2 without revision. The Site Development Plan on file in the office of the City of Marco Island Growth Management Department.

(6) "Subject Property" is real property situate and lying in the State of Florida, County of Collier, City of Marco Island, to-wit:

The Westerly portion of Lot 7, Block 798, of the Replat of Tract A of Marco Beach Unit Six, a subdivision according to the plat thereof as recorded in Plat Book 12, Pages 53 and 54, of the Public Records of Collier County, Florida, being more particular described as follows:

Commencing at the Northeast corner of said Lot 7, run South 69°25'00" West along the North line of Lot 7 for 158.33 feet to the Point of Beginning of said lot; thence continue South 69°25'00" West 165.25 feet; thence run South 21°03'46" East along the West line of Lot 7 for 30.00 feet; thence run South 20°35'00" East along the West line of Lot 7 for 161.00 feet; thence run North 69°25'00" East along the South line of Lot 7 for 165.00 feet; thence run North 20°35'00" West 191.00 feet to the Point of Beginning.

(Title and this legal description have not been examined by the City of Marco Island or the City Attorney firm of Weiss Serota Helfman Cole & Bierman, P.L. The legal description is based on the Special Warranty Deed recorded in Official Records Book 4908, Page 2878, Public Records of Collier County, Florida.)

SECTION 2. Adoption and Approval. The Site Development Plan (SDP 16-000959) with respect to the Dollar General, located at 440 West Elkcam Circle, Marco Island, Florida, 34145, on the Subject Property for the Owner/Developer, is hereby approved, subject to the conditions in Section 3. of this Resolution.

SECTION 3. Conditions of Approval. Approval of the Site Development Plan (SDP 16-000959) is granted subject to the following conditions of approval:

- (a) That failure to adhere to the Site Development Plan and 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. The Owner/Developer and the Petitioner understand and acknowledge that they must comply with all other applicable requirements of the City Code before they 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 applicant is in non-compliance with the City Code.
- (b) Consistent with Section 166.033, Florida Statutes, prior to the commencement of Development on site, the Owner/Developer/Petitioner must obtain any and all required approval from the Florida Department of Environmental Protection, and Florida Fish and Wildlife Conservation Commission, and all other applicable state or federal permits. Issuance of a Development Permit by the City of Marco Island does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the City of Marco Island 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.

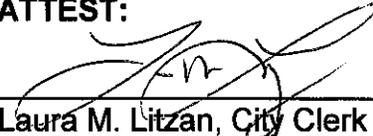
- (c) The Owner/Developer and Petitioner are required to resubmit construction documents to the City of Marco Island Building Department for review and approval, a copy of the approved Site Development Plan must be included as part of the submittal.
- (d) Final approval of the building fit out/interior layout is subject to review and approval by the City of Marco Island Building Department during the construction documents submittal phase.
- (e) Final approval of the on-site grading is subject to reviewed and approved by the City of Marco Island Building Department during the construction documents submittal phase.
- (f) The Owner/Developer and Petitioner are required to submit a Right-of-Way permit application to the City of Marco Building Department prior to any off-site work within the Right of Way, including construction access activities.
- (g) The Petitioner is responsible for any private deed restriction approvals with Marco Island Civic Association.

SECTION 3. Effective Date.

This Resolution shall be effective immediately upon adoption.

Passed in open and regular session of the City Council of the City of Marco Island, Florida, this 18th day of July 2016.

ATTEST:



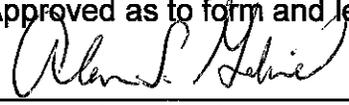
Laura M. Litzan, City Clerk

CITY OF MARCO ISLAND, FLORIDA

By: 

Robert C. Brown, Chairman

Approved as to form and legal sufficiency:



Alan L. Gabriel, City Attorney