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RESOLUTION 21-53

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING THE VACATION OF THE UTILITY AND DRAINAGE EASEMENT FOR PROPERTIES LOCATED AT 1066 GOLDENROD AVENUE AND 1049 ADMIRALTY COURT, MARCO ISLAND, FLORIDA; MAKING FINDINGS AND CONDITIONS; PROVIDING DEFINITIONS; APPROVING THE EASEMENT VACATION; PROVIDING FOR FAILURE TO OBTAIN OTHER DEVELOPMENT PERMITS; PROVIDING FOR FAILURE TO COMPLY WITH APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

13 **WHEREAS**, Section 30-581(aa) of the of the City of Marco Island Code of Ordinances provides
14 a procedure for the vacation of platted utility and drainage easements; and
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16 **WHEREAS**, the Owner/Developer has submitted a petition to vacate the utility and drainage
17 easement along the common lot line separating the Subject Property; and
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19 **WHEREAS**, the vacation of the drainage and utility easement is needed to allow for the development
20 of the Subject Property; and
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22 **WHEREAS**, the City of Marco Island Planning Board held a public hearing on November 5, 2021, to
23 consider the petition, and is required by Section 30-581(aa)(4) of the Land Development Code to submit its
24 recommendation in writing to the City Council, with a copy of the minutes of the hearing, as soon as
25 practicable thereafter; and
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27 **WHEREAS**, the Planning Board recommended approval of the vacation of the drainage and utility
28 easement subject to conditions of approval; and
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30 **WHEREAS**, the City Council finds the vacation of the drainage and utility easement, subject to
31 conditions of approval to be in the interests of the City of Marco Island,
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33 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARCO**
34 **ISLAND, FLORIDA, AS FOLLOWS:**
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36 **SECTION 1. Recitals; Definitions.**
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38 (a) The foregoing "Whereas" clauses are hereby ratified and confirmed as being true,
39 correct and incorporated into this Resolution.
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41 (b) That as used herein, unless the context hereof, or City Code of Ordinances,
42 requires to the contrary, the following terms will be defined as set forth below:
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44 (1) "Drainage and Utility Easement" means the 12-foot wide drainage and
45 utility easement portions of which lie on either side of the lot line separating Lot 1, Block 256 and Lot 30,
46 Block 257, Marco Beach Unit 6 of the Subject Property.
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48 (2) "City" means the City of Marco Island, a Florida Municipal Corporation.
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50 (3) "Development" is defined as set forth in Section 163.3164, Florida Statutes.

51
52 (4) "Owner/Developer" means Steven A. Hollingsworth, Trustee of the
53 Revocable Agreement of Trust of Steve A. Hollingsworth

54
55 (5) "Subject Property" means the following described parcel of land, lying,
56 situate and being in the State of Florida, County of Collier, City of Marco Island, to-wit:

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58 Lot 1, Block 256 and Lot 30, Block 257, Marco Beach Unit 6, according to the plat
59 thereof as recorded in Plat Book 6, Page 47 of the Collier County, FL Public
60 Records of Collier County, Florida.

61
62 **SECTION 2. Findings; Approval.** As provided in Section 30-581(aa), of the City's Code of
63 Ordinances, the City Council finds that there is no present necessity or reasonably foreseeable necessity
64 for the retention of the Drainage and Utility Easement. The City and adjacent property owners will not be
65 affected by the vacation of the Drainage and Utility Easement. The Drainage and Utility Easement
66 vacation is hereby approved, except as provided in Section 3(a) of this Resolution.

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68 **SECTION 3. Conditions of Approval.** This Resolution relating to the petition to vacate the
69 Drainage and Utility Easement on the Subject Property is hereby approved, subject to the following
70 condition:

- 71
72 (a) The Owner/Developer is solely responsible for any and all costs associated with the
73 Drainage and Utility Easement vacation, including but not limited to the following:
- 74 1. A unity of title is filed with Collier County and a copy provided to Staff before
75 the City Council meeting.
 - 76 2. A ten (10) foot square portion of the utility easement shall remain in place
77 at the Subject Property. The location of the utility easement will be ten (10)
78 feet behind the property line along Hartley St and five (5) feet on both sides
79 of the common property line of Lot 1, Block 256 and Lot 30, Block 257,
80 Marco Beach Unit 6.
 - 81 3. The Owner/Developer is solely responsible for any and all costs associated
82 with this Drainage and Utility Easement vacation, including but not limited
83 to the following:
 - 84 a. Property surveys;
 - 85 b. Professional design fees;
 - 86 c. Permit costs;
 - 87 d. Preparation and recording of new deeds and this resolution,
88 including and attorney fees;
 - 89 e. Removal, replacing or relocation of any utilities (if applicable);
 - 90 f. Removal of existing ground cover;
 - 91 g. Fill, loam and seed; and
 - 92 h. Disposal of any and all construction debris including any and all
93 infrastructure which may exist within the utility easement.
- 94

95 **SECTION 4. Failure to Obtain Other Permits.** That issuance of this approval by the City does not
96 in any way create any right on the part of the Owner/Developer to obtain a permit from a state or federal
97 agency and does not create any liability on the part of the City for issuance of the approval if the
98 Owner/Developer fails to obtain the requisite approvals or fulfill the obligations imposed by a state or

99 federal agency or undertakes actions that result in the violation of state or federal law. All applicable
100 state and federal permits must be obtained before commencement of the Development on the Subject
101 Property. This condition is included pursuant to Section 166.033, Florida Statutes, as amended.
102

103 **SECTION 5. Failure to Adhere to Resolution.** That failure to adhere to the approval terms and
104 conditions contained in this Resolution shall be considered a violation of this Resolution and the City
105 Code, and persons found violating this Resolution shall be subject to the penalties prescribed by the City
106 Code, including but not limited to the revocation of any of the approval(s) granted in this Resolution and
107 any other approvals conditioned on this approval. The Owner/Developer understands and acknowledges
108 that it must comply with all other applicable requirements of the City Code before it may commence
109 construction or operation, and that the foregoing approval in this Resolution may be revoked by the City
110 at any time upon a determination that the Owner/Developer is in non-compliance with the City Code.
111

112 **SECTION 6. Effective Date.** That this Resolution shall take effect immediately upon adoption
113 and recording in the Public Records of Collier County, Florida.
114

115 ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this 6th day of December 2021.
116

117
118 **ATTEST:**

CITY OF MARCO ISLAND, FLORIDA

119
120 _____
121 Laura Litzan, City Clerk

By: _____
Erik Brechnitz, Chairman

122
123
124 Approved as to form and legal sufficiency:

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126 _____
127 Alan L. Gabriel, City Attorney