

RESOLUTION 19-28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, RELATING TO VACATION OF TWO UTILITY EASEMENTS; MAKING FINDINGS; PROVIDING FOR DEFINITIONS; APPROVING THE UTILITY EASEMENT VACATION FOR TWO UTILITY EASEMENTS ON BOTH SIDES OF THE COMMON LOT LINE BETWEEN LOTS 23 AND 24, BLOCK 403, MARCO BEACH UNIT THIRTEEN; PROVIDING CONDITIONS OF APPROVAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on behalf of Constantine and Marianne Iordanou, the Owners, filed Petition LV-19-000929, requesting vacation of two utility easements on 919 Caxambas Drive, Marco Island, Florida 34145; and

WHEREAS, the vacation of the utility easements are needed to allow for the development of a residential single-family lot; and

WHEREAS, the Planning Board finds vacating the two utility easements is in keeping with the Comprehensive Plan; and

WHEREAS, the Planning Board held a public hearing on July 5, 2019 to consider the petition and is required by Section 30-581(aa) (4) of the Land Development Code to submit its recommendation in writing to the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, AS FOLLOWS:

SECTION 1. Recitals; Definitions.

(a) The foregoing "Whereas" clauses are hereby ratified and confirmed as being true, correct and incorporated into 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) "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) "Owner/Developer" means Constantine and Marianne Iordanou.

(4) "Subject Property" is real property situate and lying in the State of Florida, County of Collier, City of Marco Island, to-wit: Lots 23 and 24, Block

403, Marco Beach Unit Thirteen, according to the plat thereof, as recorded in Plat Book 6, Pages 92-99, Public Records of Collier County, Florida, less and except that portion of land conveyed by deed to the State of Florida, Board of Trustees of the Internal Improvement Fund, as recorded in Official Records 1125, Pages 1237-12170, Public Records of Collier County, Florida..

(5) "Utility Easement" is the six-foot wide utility easement on either side of the lot line separating Lots 23 and 24 on the subject Property. The Utility Easement is described in the dedication on the plat of Marco Beach Unit Thirteen, according to the plat thereof as recorded in Plat Book 6, Pages 92-99, Public Records of Collier County, Florida.

SECTION 2. Findings. As provided in Section 30-581(aa), of the City's Land Development Code, the City Council finds that there is no present necessity or reasonably foreseeable necessity for the retention of the Utility Easement for use as an area of placement for infrastructure for use by the Owner. The City and adjacent property owners will not be affected by the vacation of the Utility Easement.

SECTION 3. Conditions of Approval. This resolution relating to petition of approval of the Utility Easement on the Subject Property for the Owner is hereby approved, subject to the following conditions:

(a) The Owner/Developer is responsible for any private deed restriction approval with the Marco Island Civic Association.

(b) The Owner/Developer must obtain any and all approvals from Lee County Electric Co-op (LCEC), Comcast, Century Link, Florida Department of Environmental Protection or Marco Island Utilities (if applicable).

(c) The Owner/Developer must record the Unity of Title with Collier County and is subject to the conditions outlined in the Unity of Title.

(d) The Owner/Developer, his successors and assigns, are solely responsible for any and all costs associated with this Utility Easement vacation, including but not limited to the following:

- (1) Property surveys;
- (2) Professional design fees;
- (3) Permit costs;
- (4) Preparation and recording of new deeds and this resolution, including any attorney fees;
- (5) Removal, replacing or relocation of any utilities (if applicable);
- (6) Removal of existing ground cover;
- (7) Fill, loam and seed; and
- (8) Disposal of any and all construction debris including any and all infrastructure which may exist within the utility easement.

SECTION 4. Development Permit does not grant a vested right. 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. This condition is included pursuant to Section 166.033, Florida Statutes, as amended.

SECTION 5. Failure to Comply With Resolution. That failure to adhere to the requirements and conditions of 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 understands and acknowledges that it 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 Owner/Developer is in non-compliance with the City Code.

SECTION 6. Effective Date. This Resolution shall take effect immediately upon adoption by the City Council.

The foregoing Resolution was adopted this 15th day of July 2019.

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