

RESOLUTION 20-03

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING AN AMENDMENT TO A SITE DEVELOPMENT PLAN FOR PUBLIX SUPER MARKETS, INC., ON A PORTION OF TRACT "A", MARCO BEACH UNIT FIVE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 6, PAGES 39-46, PUBLIC RECORDS OF COLLIER COUNTY, LOCATED AT 175 SOUTH BARFIELD DRIVE, MARCO ISLAND FLORIDA 34145 (SDPA-19-001059); MAKING FINDINGS; APPROVING THE SITE DEVELOPMENT PLAN AMENDMENT; PROVIDING FOR FAILURE TO COMPLY WITH APPROVAL; PROVIDING FOR FAILURE TO OBTAIN OTHER PERMITS; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, Publix Super Markets, Inc, a Florida Corporation, the Owner/Developer, submitted a Site Development Plan for the development of a new store on a lot with an area of approximately 11.67-acres at 175 South Barfield Drive, Marco Island, Florida 34145 (SDP 17-003269); and

WHEREAS, the Owner/Developer's Site Development Plan was approved by the City Council by Resolution 18-92 on December 10, 2018; and

WHEREAS, the Owner/Developer has submitted a one-page amendment to SDP 17-003269 as approved by Resolution 18-92, which amendment SDPA 19-001059, consists of a one-page architectural elevation drawing; and

WHEREAS, pursuant to Section 30-673 of the LDC, and in particular Section 30-673(8) of the Land Development Code (LDC), the Planning Board has reviewed the proposed amendment SDPA 19-001059, which consists of a one-page architectural elevation drawing; and

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

WHEREAS, the City of Marco Island staff has reviewed and recommended approval of SDPA 19-001059; and

WHEREAS, the City's Planning Board reviewed and recommended approval of the Site Development Plan Amendment 19-001059 on January 3, 2020; and

WHEREAS, the City Council does hereby approve the Site Development Plan Amendment SDPA 19-001059, finding that it meets all requirements for approval of a site development amendment.

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

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) 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 Publix Super Markets, Inc., a Florida Corporation, and its successors and assigns.

(6) "Subject Property" means the following described parcel of land affected by this Resolution, lying, situate and being in the State of Florida, County of Collier, City of Marco Island, to-wit:

Being a part of Tract A, Marco Beach Unit 5, Section 16, Township 52 South, Range 26 East, as recorded in Plat Book 6, Pages 39-46, Public Records of Collier County, Florida, and being more particularly described as follows:

Commencing at the Southwest corner of Tract A, Marco Beach Unit 5, on the East side of South Barfield Drive and the

Northwest corner of Lot 22, Block 146; thence along the South Boundary of Tract A South 73°53'00" East 106.42 feet; thence North 16°07'00" East 23.00 feet to the Southwest corner of the parcel herein being described and the Point of Beginning; thence North 02°48'10" East 186.60 feet; thence North 87°11'50" West 10.00 feet; thence North 02°48'10" East 44.00 feet; thence South 87°11'50" East 229.67 feet; thence South 02°48'10" West 93.50 feet; thence South 87°11'50" East 15.00 feet; thence South 02°48'10" West 192.63 feet; thence North 73°53'00" West 241.15 feet to the Point of Beginning of the parcel herein described; containing 59,667 +/- square feet of land;

(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.; extracted from deed recorded on September 13, 1984 in Official Records Book 1100, Page 1514, and Official Records Book 2655, Page 2899, Public Records of Collier County, Florida.)

(7) "Site Development Plan Amendment" means the following documentation, which new language and amendment to Resolution 18-92 is underlined: The two-page architectural elevations prepared by Fisher and Associates, LLC, of Clearwater, FL, prepared without a project number and dated June 23, 2017 for the sheet showing the Publix front, back, left side and right side elevation; and the Retail Elevations, and the one-page architectural elevation labeled as Sheet A4.1 entitled Publix Exterior Elevation prepared by Fisher and Associates, LLC, of Clearwater, FL, under Project No. 216027 dated September 30, 2019, without date of revision. The foregoing approved documents are on file in the City's Department of Growth Management.

SECTION 2. Adoption. The Owner/Developer's Site Development Plan (SDP-17-003269) as approved by Resolution 18-92 on December 10, 2018, is hereby amended by this SDPA 19-001059 to include the Site Development Plan Amendment. All other provisions of SDP-17-003269) as approved by Resolution 18-92 on December 10, 2018, remain in full force and effect. The Site Development Plan is approved subject to the conditions of approval set forth in Section 3. hereof. Approval of the Site Development Plan does not constitute approval of any signage.

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

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 21st day of January 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