

## **RESOLUTION 20-44**

**A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING A UTILITY AND DRAINAGE EASEMENT VACATION FOR PROPERTY LOCATED AT 161 CHANNEL COURT, MARCO ISLAND, FLORIDA; MAKING FINDINGS; 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.**

**WHEREAS**, Section 30-581(aa) of the of the City Code of Ordinances of Marco Island provides a procedure for the vacation of platted utility and drainage easements; and

**WHEREAS**, the Owner/Developer has submitted a petition to vacate the utility and drainage easement along the common lot line separating Lots 13 and 14 of the Subject Property; and

**WHEREAS**, the vacation of the drainage and utility easement is needed to allow for the development of the Subject Property; and

**WHEREAS**, the Planning Board held a public hearing on October 2, 2020, 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, with a copy of the minutes of the hearing as soon as practicable thereafter; and

**WHEREAS**, the Planning Board recommended approval of the drainage and utility easements subject to conditions of approval; and

**WHEREAS**, the City Council finds the drainage and utility easement vacation subject to conditions of approval to be in the interests of the City of Marco Island.

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD 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) 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) "Drainage and Utility Easement" means the 12-foot wide drainage and utility easement portions of which lie on either side of the lot line separating Lots 13 and 14 of the Subject Property. The drainage and utility easement is described in the dedication on the plat of Marco Beach Unit Five, as recorded in Plat Book 6, Pages 39-46, Public Records of Collier County, Florida.

(2) "City" means the City of Marco Island, a Florida Municipal Corporation.

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

(4) "Owner/Developer" means Mary Walworth Navarro, as Trustee of the Mary Walworth Navarro Revocable Trust dated October 11, 1999, as to an undivided 50% interest and Luis Gonzalo Navarro, as Trustee of the Luis Gonzalo Navarro Revocable Trust dated October 11, 1999, as to an undivided 50% interest, and each of their respective successors and assigns as owners in fee simple of the Subject Property.

(5) "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 13 and 14, Block 169, Marco Island Unit 5, according to the plat thereof, as recorded in Plat Book 6, Page 39-46, Public Records of Collier County, Florida.

**SECTION 2. Findings; Approval.** 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 Drainage and Utility Easement for use as an area of placement for drainage or infrastructure for use by the Owner. The City and adjacent property owners will not be affected by the vacation of the Utility Easement. The Drainage and Utility Easement vacation is hereby approved, except as provided in Section 3.(b) of this Resolution.

**SECTION 3. Conditions of Approval.** This Resolution relating to petition of approval of the Drainage and Utility Easement on the Subject Property for the Owner/Developer is hereby approved, subject to the following conditions:

(a) The Owner/Developer is solely responsible for any and all costs associated with this Drainage and 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.

(b) As required by the City of Marco Island Utilities, 8-feet of the original Drainage and Utility Easement shall not be vacated running from the back side of the sidewalk towards the seawall.

**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 and recording in the Public Records of Collier County, Florida.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 9<sup>th</sup> day of November 2020.

**ATTEST:**

**CITY OF MARCO ISLAND, FLORIDA**

\_\_\_\_\_  
Laura M. Litzan, City Clerk

By: \_\_\_\_\_  
Chairman

Approved as to form and legal sufficiency:

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Alan L. Gabriel, City Attorney