

RESOLUTION 21-27

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING THE VACATION OF A PORTION OF PARK AVENUE RIGHT-OF-WAY IN CONJUNCTION WITH THE DEVELOPMENT OF THE CITY OF MARCO ISLAND VETERAN'S COMMUNITY PARK; APPROVING THE RIGHT-OF-WAY 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 of Marco Island Code of Ordinances provides a procedure for the vacation of platted right-of-way; and

WHEREAS, the Owner/Developer has submitted a petition to vacate a portion Park Avenue as identified in Exhibit A; and

WHEREAS, the vacation of a portion Park Ave. is needed to allow for the development of the City's Veteran's Community Park; and

WHEREAS, the Planning Board held a public hearing on July 2, 2021, 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 to vacate a portion Park Avenue subject to conditions of approval; and

WHEREAS, the City Council finds the vacation of a portion of Park Avenue, 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. Findings; Approval. As provided in Section 30-581(aa), of the City's Code of Ordinances, the City Council finds that there is no present necessity or reasonably foreseeable necessity for the retention of a portion of the Park Avenue right-of-way. The adjacent property owners will not be affected by the vacation of a portion of the Park Avenue right-of-way. The vacation of a portion of the Park Avenue right-of-way is hereby approved, except as provided in Section 2.(a) of this Resolution.

SECTION 2. 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 condition:

(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 and 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 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 on the Subject Property. 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 and recording in the Public Records of Collier County, Florida.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 19th day of July 2021.

ATTEST:

CITY OF MARCO ISLAND, FLORIDA

Laura Litzan, City Clerk

By: _____
Jared Grifoni, Chairman

Approved as to form and legal sufficiency:

Alan L. Gabriel, City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION

A portion of the Park Avenue right-of-way.

Being a certain part of a road right-of-way that lying in Section 8, Township 52 South, Range 26 East, Collier County, Florida and which is more particularly described as follows:

Commencing at the centerline intersection of Elkcarn Circle (having an 80-foot wide right-of-way) and Park Avenue (having a 100-foot wide right-of-way and formerly known as Lambert Drive); thence North 29° 19' 36" East 99.90 feet along the centerline of said Park Avenue; thence South 60° 40' 24" East 50.00 feet to the intersection of the easterly right-of-way line of said Park Avenue which is the **Point Of Beginning** and the beginning of a curve concave to the east, having a radius of 50.00 feet and through which a radial line bears North 60° 40' 24" West; thence southerly through a central angle of 61° 11' 19" an arc distance of 53.40 feet to the point of reverse curve of a curve concave to the northwest, having a radius of 50.00 feet and through which a radial line bears North 58° 08' 17" East; thence southwesterly through a central angle of 146° 09' 04" an arc distance of 127.54 feet to the point of compound curve of a curve concave to the northeast, having a radius of 640 feet and through which a radial line bears South 24° 17' 21" West; thence northwesterly through a central angle of 03° 37' 01" an arc distance of 40.40 feet to a point of cusp of a curve concave to the northwest, having a radius of 35.00 feet and through which a radial line bears South 27° 54' 21" West; thence northeasterly through a central angle of 66° 34' 45" an arc distance of 54.11 feet to the point of tangent; thence North 29° 19' 36" East 104.71 feet to the **Point Of Beginning**.

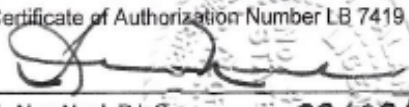
Containing 4,562 square feet, more or less.

Subject to any easements, rights-of-ways, restrictions, reservations or other matters of title.

Bearings are based upon an assumed plat bearing of North 29° 16' 36" East for the centerline of Lambert Drive (now known as Park Avenue), according to the plat of A Replat Of Tract "A", Marco Beach Unit Six, as recorded in Plat Book 12, Page 54 of the Public Records of Collier County, Florida.

Prepared by:

American Engineering Consultants of Marco Island, Inc.
Certificate of Authorization Number LB 7419


T. Alan Neal, P.L.S.
Professional Land Surveyor
State of Florida Reg. No. LS4656

07/02/2021

SURVEYOR'S NOTES

1. All dimensions are in feet and decimals thereof.
2. This legal description and sketch of description was prepared without the benefit of an abstract of title or title opinion; therefore it is subject to any easements encumbrances, reservations, restrictions, rights-of-ways, use and other matters of title.
3. This legal description and sketch of description is subject to any underground or not visible improvements.
4. Portions of the property described hereon may be subject to the jurisdiction and restrictions of governmental agencies.
5. This legal description and sketch of description does not reflect or determine ownership.
6. This legal description and sketch of description is **NOT A SURVEY**.

LEGAL DESCRIPTION AND SKETCH OF DESCRIPTION A PORTION OF PARK AVENUE RIGHT-OF-WAY

**SEE SHEET 2 OF 2
FOR SKETCH OF
DESCRIPTION**

AMERICAN ENGINEERING CONSULTANTS
OF MARCO ISLAND INC.

573 BALD EAGLE DRIVE
MARCO ISLAND, FLORIDA, 34145
(239) 394-1697

Job Number:	007-054-01
Scale:	1" = 50'
Date of Field Survey	04-22-2021
Drawing File:	007-054-01
Drawn By: CTM	DATE: 04-23-2021

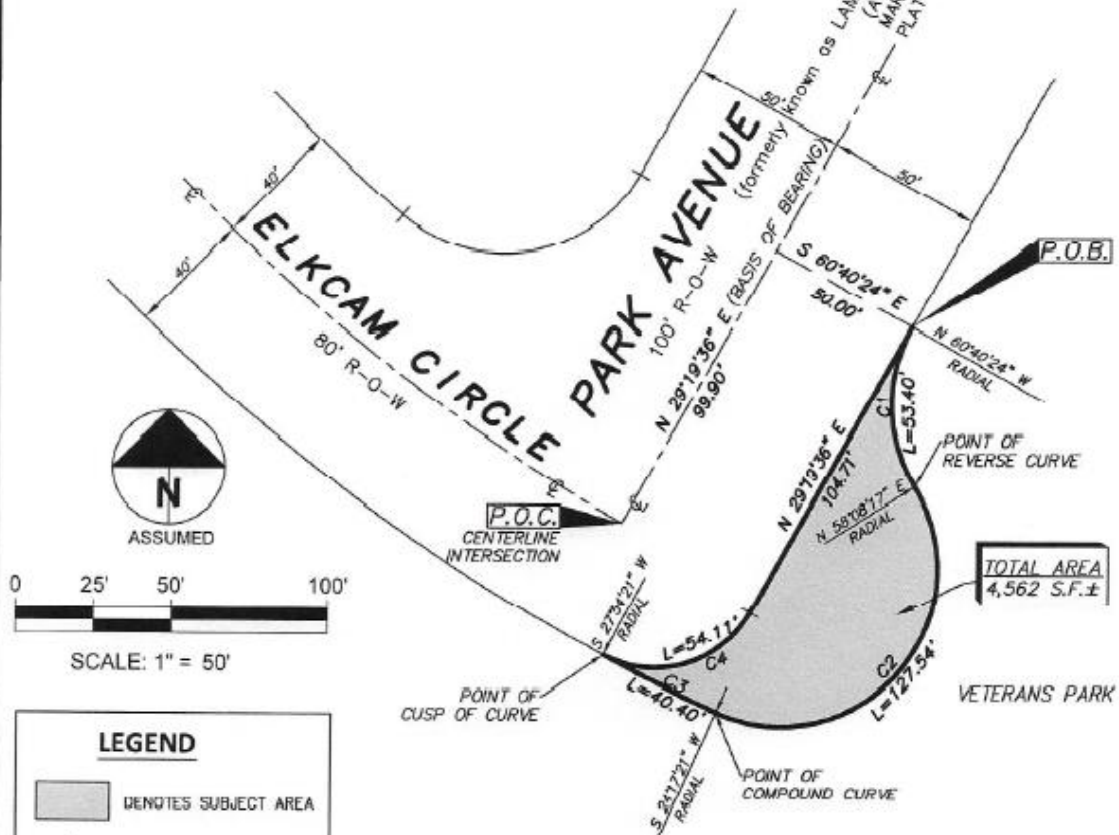
SHEET 1 OF 2

NOT A SURVEY

EXHIBIT _____

CURVE TABLE

Curve	Delta Angle	Radius	Arc Length	Chord	Chord Bearing
C1	61°11'19"	50.00'	53.40'	50.90'	S 01°16'03" E
C2	146°09'04"	50.00'	127.54'	95.67'	S 41°12'49" W
C3	03°37'01"	640.00'	40.40'	40.39'	N 63°54'09" W
C4	88°34'45"	35.00'	54.11'	48.88'	N 73°36'59" E



**SEE SHEET 1 OF 2
FOR LEGAL
DESCRIPTION**

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