

**RESOLUTION 19-46**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, FINALIZING APPROVAL OF THE PARKING MAINTENANCE AGREEMENT AND PEDESTRIAN NODE EASEMENT PURSUANT TO RESOLUTION 16-43 FOR A SITE IMPROVEMENT PLAN FOR PROPERTY COMMONLY KNOWN AS "ISLAND PLAZA SHOPPING CENTER" LOCATED AT 664 BALD EAGLE DRIVE, MARCO ISLAND, FLORIDA; PROVIDING FOR CONDITIONS OF APPROVAL; AND PROVIDING AN EFFECTIVE DATE.**

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

**WHEREAS**, Island Plaza Investments, LLC, a Delaware Limited Liability Company, 525 Third Street Suite 300 Beloit, WI 53511 ("Petitioner") submitted Site Improvement Plan (SIP 16-001166) for the renovation of Island Plaza Shopping Center at 664 Bald Eagle Drive Marco Island Florida 34145; and

**WHEREAS**, the City Council approved the Site Improvement Plan, SIP 16-001166 under Resolution 16-43; and

**WHEREAS**, certain elements of Resolution 16-43 require final approval and acceptance by the City Council; and

**WHEREAS**, the City Council does hereby approve and accept the Conditions of Approval of Site Improvement Plan (SIP 16-001166), as set forth in this Resolution and Resolution 16-43.

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

**SECTION 1. Recitals; Definitions.**

- (a) The foregoing "Whereas" clauses are hereby ratified and confirmed as being true, correct and incorporated herein by this reference.
- (b) As used herein, unless the context of usage affirmatively requires to the contrary, the following terms will be defined as set forth below:
  - (1) "Development" is as defined as set forth in Section 163.3164, Florida Statutes.

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

(3) "Owner/Developer" means Island Plaza Investments, LLC, a Delaware Limited Liability Company, its successors and assigns, as owners in fee simple of the Subject Property.

(4) "Site Improvement Plan" classified by the City of Marco Island as SIP 16-001166, is 43 pages in length and includes:

(A) a 3 page set of documents entitled Site Improvement Plans for Island Plaza prepared by Hole Montes, Inc. of Naples, FL, under Project No. 2013.084, including Sheet 1, dated April, 2016 with last date of revision dated April, 2016, Sheets 2 and 3 (Demolition Plan) dated March, 2016 and with last date of revision being April, 2016;

(B) a 4 page document entitled Island Plaza Site Development Plan (SDP) Parking Lot Lighting Plans prepared by Treblicock Planning and Engineering of Naples, FL, prepared with no Project No., and no date of preparation and revision and marked issue for permit date 4-29-2016;

(C) all of Sheets L-1, L-2, L-3, and L-4; and a 10 page Island Plaza Renovations – A Hendricks Commercial Properties Development – Landscape Architectural Plans, prepared by Mariano Corral of Miami, FL, under Project No. 122014-R, dated 4-6-16 with no date of revision, all for Sheets LC (cover sheet), LD-0, LD-1, LD-2, LP-0, LP-1, LP-2, LP-3, LP-4, and IR-1;

(D) a 26 page set of architectural plans entitled Site Improvement Plan Submission, prepared by Architects Unlimited of Naples, FL, marked as submitted on May 6, 2016 with no date of revision for Sheets Cover, A001, A002, A100-A105, inclusive, A201-204, inclusive, A401-A406, inclusive, and A501-A507, inclusive.

(5) "Subject Property" which is also referred to herein as the "Island Plaza Shopping Center" or as "Island Plaza" is real property lying and situate in the State of Florida, County of Collier, City of Marco Island, to-wit:

Lots 14, 15, 16, and 17, Block 782, Replat of a Portion of Marco Beach Unit Eleven, A subdivision according to the plat thereof, as recorded in Plat Book 12, Page 24 to 26, Public Records of Collier County, Florida.

(This legal description was excerpted from the Special Warranty Deed recorded on October 1, 2013, in Official Records Book 4970, Page 2512, Public Records of Collier County, FL. This legal description has neither been reviewed or examined by the City of Marco Island, a Florida Municipal Corporation, its officers

and staff or by Alan Gabriel and Paul Gougelman, Weiss Serota Helfman, Cole & Bierman, P.L.)

**SECTION 2. Adoption and Approval.** This Resolution supplements City of Marco Island City Council Resolution 16-43. This Resolution contemplates approval and acknowledgement of actions taken to comply with the conditions of approval in Resolution 16-43 and Site Improvement Plan (SIP 16-001166) with respect to Island Plaza, located on the Subject Property.

**SECTION 3. Conditions of Approval.** The following action with regard to the Conditions of Approval set out in Resolution 16-43 is hereby accepted and approved by the City Council are set out herein:

(a) Consistent with Section 166.033, Florida Statutes, prior to commencement of development on site, the Owner/Developer/Petitioner has obtained any and all required approval from the Florida Department of Environmental Protection, and Florida Fish and Wildlife Conservation Commission, and all other applicable state or federal permits.

(b) The Owner/Developer/Petitioner has submitted construction documents to the City of Marco Island Building Department for review and approval, and a copy of the approved Site Improvement Plan were included as part of the submittal. The construction of the improvements set out in the SIP 16-001166 is essentially complete.

(c) Pedestrian Node.

(1) The Pedestrian Node with signage as described in Resolution 16-43 and approved by the Planning Board and City Council has been constructed pursuant to the Site Improvement Plan documents submitted with SIP 16-001166, and in particular the architectural drawings included as Sheets A001, A203, A504, and A506. Building permits were issued by the City of Marco Island for all construction of the Pedestrian Node, including the signage.

(2) The easement for the pedestrian node and for ingress to and egress from the node is attached hereto as Exhibit "A", and incorporated herein by this reference, and is hereby accepted by the City of Marco Island, a Florida Municipal Corporation, under the terms and conditions as set out in Resolution 16-43.

(3) Within not more than thirty (30) days of the adoption of this Resolution, the Owner/Developer shall record the easement in the Public Records of Collier County. The Owner/Developer shall be responsible for and promptly pay for any costs related to acquisition of the easement, the cost of recording said easement in the Public Records of Collier County, payment of any documentary stamp or other tax related to the conveyancing, survey of the easement location, and required title work. The easement(s) has been conveyed for Minimal

Consideration. The original, recorded instrument shall be forwarded to the City Clerk within thirty (30) days of recording in the Public Records of Collier County, Florida.

(d) Tree Fund. A total of \$16,590 dollars has been paid by the Owner/Developer for Landscape deficiency on the Subject Property prior to issuance of the Development building permit, and the funds shall be used for landscape beautification on public property within the City off-site of the Island Plaza Shopping Center parcel in locations at the discretion of the City. Section 3., condition d. of Resolution 16-43 is hereby deemed to be satisfied.

(e) Clock Tower. The clock tower is currently, as of the date of this Resolution, operational and in good working order all day every day.

(f) Off-Site Parking Herb Savage Way. The City Council hereby accepts the Off-Site Parking on Herb Savage Way as depicted on Sheet A100 of the Site Improvement Plan and in the Parking Maintenance Agreement for Island Plaza Shopping Center attached hereto as Exhibit "B", which parking space have been constructed by the Owner/Developer pursuant to the Site Improvement Plan.

Sheet T1 of the original site plan prepared by Mudano Associates Architects, Inc., of Clearwater, FL, under Project No. 79-12, approved by Collier County in June, 1979, under Collier County Records No. 79-2945 to 2949, provided for 201 parking spaces on the Subject Property. The currently effective City LDC for the Subject Property requires 293 parking spaces, and the Site Improvement Plan pursuant to Sheet A100 provides for 212 parking space on the Subject Property plus 20 off-site parking spaces on Herb Savage Way adjacent to the Subject Property. Pursuant to Section 30-488d. of the LDC and because the Owner/Developer is installing and continuously maintaining to 20 off-site parking spaces, the Subject Property will receive a credit of 10 additional parking spaces. This means that for the Subject Property, 222 parking spaces are provided. The additional spaces have been provided by the Owner/Developer to minimize the parking deficiency to the maximum extent possible and therefore the Subject Property is deemed to conform with Section 30-488 (5) of the Land Development Code as a shopping center of over 16,000 square feet and subject to the restaurant limitations as set out therein.

(1) The parking surface on Herb Savage Way has been constructed of asphalt, landscape buffer and meets all requirements as set out in Resolution 16-43. The same conditions may not apply to other alleys within the City Limits.

(2) The Parking Maintenance Agreement for Island Plaza Shopping Center attached hereto as Exhibit "B", and incorporated herein by this reference, between the City and the Owner/Developer, on its behalf and that of its successors and assigns, for the off-site parking along Herb Savage Way attached hereto is hereby accepted by the City.

(3) The parking constructed by the Owner/Developer consisting of an additional 21 parking spaces over the original 1979, 201 parking spaces shall be credited to the Owner/Developer's parking matrix, but such parking shall not be used to increase density or intensity of use or square footage on the Subject Property.

(4) Within thirty (30) days of the approval of this Resolution, at the sole expense of the Owner/Developer, the Parking Maintenance Agreement shall be recorded in the Collier County Public Records and shall run with the title to the Island Plaza Shopping Center (the Subject Property). The original, recorded copy of the Parking Space Maintenance Agreement shall be returned to the City Clerk within thirty (30) days after recording of the Agreement.

(5) The Parking Maintenance Agreement shall be joined in and consented to by all mortgagees or other holders of a security interest of the Island Plaza Shopping Center parcel.

**SECTION 4. Effective Date.** This Resolution shall be effective immediately upon adoption by the City Council.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 4<sup>th</sup> day of November 2019.


**ATTEST:**

  
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Laura M. Litzan, City Clerk

**CITY OF MARCO ISLAND, FLORIDA**

By   
\_\_\_\_\_  
Erik Brechnitz, Chairman

Approved as to form and legal sufficiency:

  
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Alan L. Gabriel, City Attorney

