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RESOLUTION 20-11

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA APPROVING A VARIANCE TO ALLOW FOR SIXTEEN (16) TEMPORARY SIGNS FOR NOT MORE THAN 545 DAYS; MAKING FINDINGS; APPROVING A VARIANCE FOR THE SUBJECT PROPERTY, LOCATED AT 1089 NORTH COLLIER BOULEVARD, MARCO ISLAND, FLORIDA, ON PROPERTY LOCATED IN A PORTION OF TRACT G, MARCO BEACH UNIT FOUR, PLAT BOOK 6, PAGES 32 THROUGH 37, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA; PROVIDING FOR FINDINGS AND CONDITIONS OF APPROVAL; PROVIDING FOR FAILURE TO COMPLY WITH THIS DEVELOPMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 30-524, of the Land Development Code, provides standards and conditions for the erection of certain temporary signs; and

WHEREAS, the Owner/Developer seeks a variance to exceed the number of size of temporary signs by erecting up to sixteen (16) temporary signs during renovation of the Marco Town Center Shopping Center, said signs ranging in size from 4 feet x 4 feet to 5 feet x 15 feet; and

WHEREAS, Section 30-65, of the Land Development Code, provides standards and considerations for the grant of a variance; and

WHEREAS, the Owner submitted Variance Petition 19-001071 for the Subject Property located at 1089 North Collier Blvd., Marco Island, Florida 34145, on the Subject Property; and

WHEREAS, the City of Marco Island staff has reviewed and recommended approval of VP 19-001071; and

WHEREAS, based on Section 30-65(g)(3)a. of the LDC, the Planning Board finds that there are special conditions and circumstances existing which are peculiar to the location, size and characteristics of the land, structure, or building involved, given that there are seven curb cuts for the project off of three primary roads and that the site is irregularly shaped; and

WHEREAS, based on Section 30-65(g)(3)b. of the LDC, the Planning Board finds that there are special conditions and circumstances which do not result from the action of the Owner/Developer given that the Marco Town Center is being renovated while businesses will continue to be open for shopping; and

45 **WHEREAS**, based on Section 30-65(g)(3)c. of the LDC, the Planning Board finds
46 that due to the renovation of Marco Town Square, the LDC works a practical difficulty on
47 the Owner/Developer; and
48

49 **WHEREAS**, based on Section 30-65(g)(3)d. of the LDC, the Planning Board finds
50 That the variance, if granted, will be the minimum variance that will make possible the
51 reasonable use of the land, building or structure and which promote standards of health,
52 safety or welfare, because the temporary signage will promote traffic safety for
53 customers and visitors by providing directional signage to avoid construction; and
54

55 **WHEREAS**, based on Section 30-65(g)(3)e. of the LDC, the Planning Board finds
56 that granting the variance requested will not confer on the petitioner any special privilege
57 that is denied by this LDC to other lands, buildings, or structures in the same zoning
58 district, given that the Marco Town Center is a large shopping plaza under re-
59 construction; and
60

61 **WHEREAS**, based on Section 30-65(g)(3)f. of the LDC, the Planning Board finds
62 that granting the variance will be in harmony with the intent and purpose of this zoning
63 code, and not be injurious to the neighborhood, or otherwise detrimental to the public
64 welfare, because traffic and customer safety will be promoted by directional and
65 informational signage to avoid the effects of construction activities; and
66

67 **WHEREAS**, based on Section 30-65(g)(3)g. of the LDC, the Planning Board finds
68 that while there are no natural conditions or physically induced conditions that
69 ameliorate the goals and objectives of the regulation such as natural preserves, lakes,
70 golf course, or similar circumstances, the fact that the project is under renovation
71 satisfies the intent of this condition; and
72

73 **WHEREAS**, based on Section 30-65(g)(3)h. of the LDC, the Planning Board finds
74 that the granting of the variance will be consistent with the comprehensive plan by
75 promoting safety and health during construction activities; and .
76

77 **WHEREAS**, the City's Planning Board has reviewed and recommended approval
78 of the Variance Petition, VP 19-001071; and
79

80 **WHEREAS**, the City Council finds that the Variance Petition meets the
81 requirements of the City of Marco Island Code of Ordinances, adopts the Planning Boards
82 findings and recommendations of staff, and should be approved, subject to the conditions
83 of approval set forth in this Resolution.
84

85 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY**
86 **OF MARCO ISLAND, FLORIDA:**
87

88 **SECTION 1. Recitals; Definitions.**
89

90 (a) That the foregoing "WHEREAS" clauses are ratified and confirmed
91 as being true and correct and are made a specific part of this Resolution.

92 (b) That as used herein, unless the context or City Code of Ordinances
93 requires to the contrary, the following terms will be defined as set forth below:
94

95 (1) "City" means the City of Marco Island, a Florida Municipal
96 Corporation.

97
98 (2) "Development" is defined as set forth in Section 163.3164,
99 Florida Statutes.

100
101 (3) "Development Permit" is defined as set forth in Section
102 163.3164, Florida Statutes.

103
104 (4) "LDC" means the City's Land Development Code as set forth
105 in Chapter 30, Code of Ordinances of the City of Marco Island, Florida.

106
107 (5) "Owner/Developer" means BRE Mariner Marco Town Center
108 LLC, a Delaware Limited Liability Company, its successors and assigns as fee simple
109 owner of any portion or all of the Subject Property.

110
111 (6) "Subject Property" means the following described parcel of
112 land, lying, situate and being in the State of Florida, County of Collier, City of Marco
113 Island, to-wit:

114
115 That certain parcel of land lying in and being a part of a portion
116 of Tract G, Marco Beach Unit Four, according to the plat
117 thereof, as recorded in Plat Book 6, Pages 32 through 37,
118 Public Records of Collier County., and being more particularly
119 described as follows:

120
121 Commencing at the centerline of the intersection of North
122 Collier Boulevard and State Road 953, formerly known as S-
123 951 thence run S. 20⁰ 52'10" E. along said centerline of SR
124 953 a distance of 215.00 feet; thence run N. 69⁰ 07'50" E. for
125 a distance of 50 feet to a point on the Northeasterly right-of-
126 way of said SR-953 to the Point of Beginning of the parcel
127 hereinafter described; thence run N. 68⁰ 56' 14" E. for a
128 distance of 250.56 feet; thence N. 21⁰ 03'46" W. for a distance
129 of 165.00 feet on the Southeasterly right-of-way line of North
130 Collier Boulevard; thence N. 68⁰ 56'14" E. along said right-of-
131 way line for a distance of 489.88 feet to a point of curvature of
132 a circular curve to the right having a radius of 1950 feet;
133 thence run Easterly along said right-of-way line and the arc of
134 said curve with a central angle of 00⁰ 57'41 " for a distance of
135 32.72 feet; thence leaving said right-of-way line S. 21⁰ 03'46"
136 E. for a distance of 189.73 feet; thence run N.68⁰ 56'14" E. for
137 a distance of 160.00 feet to a point on the Westerly right-of-

138 way line of Elkcam Circle, as shown on said plat of Marco
139 Beach Unit Four; thence run S. 11° 37' 15" E. along said
140 Westerly right-of-way line for a distance of 155.72 feet to the
141 point of curvature of a circular curve to the right having a
142 radius of 560 feet; thence run Southerly along said right-of-
143 way line and the arc of said curve having a central angle of
144 06°58'29" for a distance of 68.17 feet; thence leaving said
145 right-of-line S. 68°56'14" W. for a distance of 474.21 feet;
146 thence run S. 21°03'46" E. for a distance of 398.22 feet to a
147 point on the Northerly right-of-way line of said Elkcam Circle,
148 said point being on a curve having a radius of 560 feet; thence
149 along said right-of-way curving to the right and having a
150 central angle of 06°54'48" for a distance of 67.57 feet to the
151 end of the curve; thence continue along said right-of-way line
152 S. 69°25'00" W. for a distance of 220.20 feet; thence leaving
153 said right-of-way line N. 20°52' 10" W. for a distance of 255.29
154 feet; thence S. 69°07'50" W. for a distance of 132.50 feet to a
155 point of the Easterly right-of-way line of State Road 953;
156 thence N. 20°52'10" W. along said right-of-way line for a
157 distance of 389.00 feet to the point of beginning. Collier
158 County Property Appraiser's Parcel No. 56930960002.

159
160 [Said Legal Description is excerpted from the Statutory
161 Warranty Deed by which the Owner/Developer took title to the
162 Subject Property recorded in Official Records Book 4752,
163 Pages 462 through 464, Public Records of Collier County,
164 Florida. The legal description has neither been examined by
165 the City of Marco Island or Weiss Serota Helfman Cole &
166 Bierman, P.L.]

167
168 **SECTION 2. Adoption and Approval.** The Variance Petition 19-001071 approving
169 a variance to Section 30-524(c) of the LDC to allow a total sixteen (16) temporary signs
170 of which six (6) signs shall not exceed 4 feet x 4 feet in size, eight (8) signs shall not
171 exceed 4 feet x 8 feet in size, and two (2) signs shall not exceed 5 feet x 15 feet in size,
172 is hereby approved, subject to the conditions set forth in Section 3. of this Resolution.
173 This approval is specific as to the Subject Property

174
175 **SECTION 3. Conditions of Approval.** Approval of the Variance Petition 19-
176 001071 is granted subject to the following conditions of approval:

177
178 (a) The variance shall expire upon the completion of Subject Property
179 renovation but in no event later than 545 days (approximately 18 months) after the
180 adoption date of this Resolution by the City Council; and

181
182 (b) The Owner/Developer shall be responsible for maintaining all signs
183 and keeping them in good repair, free of fading, ripping, falling apart, and similar condition.

184 **SECTION 4. Development Permit Does Not Create a Vested right For Other**
185 **Development Permits.** That issuance of this approval by the City does not in any way
186 create any right on the part of the Owner/Developer to obtain a permit from a state or
187 federal agency and does not create any liability on the part of the City for issuance of the
188 approval if the Owner/Developer fails to obtain the requisite approvals or fulfill the
189 obligations imposed by a state or federal agency or undertakes actions that result in the
190 violation of state or federal law. All applicable state and federal permits must be obtained
191 before commencement of the Development. This condition is included pursuant to
192 Section 166.033, Florida Statutes, as amended.

193
194 **SECTION 5. Failure to Comply With Resolution.** That failure to adhere to the
195 Variance approval and the approval terms and conditions contained in this Resolution
196 shall be considered a violation of this Resolution and the City Code, and persons found
197 violating this Resolution shall be subject to the penalties prescribed by the City Code.
198 The Owner/Developer understands and acknowledges that it must comply with all other
199 applicable requirements of the City Code before they may commence construction or
200 operation, and that the foregoing approval in this Resolution may be revoked by the City
201 at any time upon a determination that the Owner/Developer is in non-compliance with the
202 City Code.

203
204 **SECTION 6. Effective Date.** This Resolution shall be effective immediately upon
205 adoption.

206
207 ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 4th day of
208 May 2020.

209
210
211 **ATTEST:**

212
213 
214 _____
215 Laura M. Litzan, City Clerk

216
217 **CITY OF MARCO ISLAND, FLORIDA**

218 By: 
219 _____
220 Erik Brechnitz, Chairman

217 Approved as to form and legal sufficiency:

218 
219 _____
220 Alan L. Gabriel, City Attorney

