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RESOLUTION 20-17

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING A VARIANCE FOR TEMPORARY SIGN PLAN FOR THE SHOPS OF MARCO LOCATED AT 167 AND 175 SOUTH BARFIELD DRIVE AND 1821 SAN MARCO ROAD, MARCO ISLAND; MAKING FINDINGS; PROVIDING DEFINITIONS; APPROVING THE TEMPORARY SIGN PLAN; PROVIDING CONDITIONS OF APPROVAL; PROVIDING FOR FAILURE TO OBTAIN OTHER DEVELOPMENT PERMITS; PROVIDING FOR FAILURE TO COMPLY WITH APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

15 **WHEREAS**, Section 30-524 of the of the Marco Island Land Development Code
16 relates to temporary signage and provides standards and regulations for the review and
17 approval of site improvement plans; and
18

19 **WHEREAS**, the Owner/Developer submitted a Temporary Sign Plan for the
20 Development of the Shops of Marco at 1821 San Marco Road and 167 and 175 South
21 Barfield Drive, Marco Island, Florida; and
22

23 **WHEREAS**, the City of Marco Island staff has reviewed and recommend approval
24 of VP 20-000132; and
25

26 **WHEREAS**, the Planning Board has found that granting of the variance for the
27 Temporary Sign Plan in this instance is based upon special conditions and circumstances
28 relating to the size of the Subject Property and that it is a shopping center with numerous
29 businesses; and
30

31 **WHEREAS**, the Planning Board has found that granting of the variance for the
32 Temporary Sign Plan is appropriate given that there is a special condition in that the
33 OwnerDeveloper is upgrading the entire center, which the City supports and has
34 approved; and
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36 **WHEREAS**, the Planning Board has found that granting of the variance for the
37 Temporary Sign Plan is in order, because a literal intepretation will create a practical
38 difficulty, not just on the Owner/Developer, but on the businesses, customers, and
39 visitors inb the shopping center, by not having temporary signage during construction
40 to guide individuals to various shops and
41

42 **WHEREAS**, the Planning Board has found that granting of the variance for the
43 Temporary Sign Plan is in order, because during the temporary period of
44 redevelopment, the Temporary Sign Plan will promote the public health, safety,

45 welfare, and aesthetics of the Subject Property given the size of the Subject Property,
46 number of temporary signs, and redevelopment of the Subject Property; and
47

48 **WHEREAS**, the Planning Board has found that granting of the variance for the
49 Temporary Sign Plan is in order, because given the size of the project, the number and
50 size of signage is reasonable and will not create a special privilege, because the
51 Subject Property is being redeveloped; and
52

53 **WHEREAS**, the Planning Board has found that granting of the variance for the
54 Temporary Sign Plan is in harmony with the LDC, because it will promote the safety of
55 the customers and visitors to the center and given the temporary nature of the variance,
56 it is aesthetically in order such that it will not be injurious to the neighborhood; and
57

58 **WHEREAS**, the Planning Board has found that granting of the variance for the
59 Temporary Sign Plan is proper given that the redevelopment, a physically induced
60 condition, is of a temporary nature and will not significantly ameliorate the goals and
61 objectives of the LDC; and
62

63 **WHEREAS**, the Planning Board has found that granting of the variance for the
64 Temporary Sign Plan is not inconsistent with the City's Comprehensive; and
65

66 **WHEREAS**, the City's Planning Board has reviewed the staff report and the
67 Temporary Sign Plan, taken public testimony, and hereby recommends approval of the
68 variance conditioned upon the Temporary Sign Plan and subject to certain conditions set
69 forth herein, as being in compliance with applicable LDC regulations on June 5, 2020;
70 and
71

72 **WHEREAS**, the City Council does hereby approve the variance and the
73 Temporary Sign Plan for VP-20-000132, subject to the conditions of approval set forth
74 in this resolution.
75

76 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY**
77 **OF MARCO ISLAND, FLORIDA:**
78

79 **SECTION 1. Recitals; Definitions.**
80

81 (a) That the foregoing "WHEREAS" clauses are ratified and confirmed
82 as being true and correct and are made a specific part of this Resolution.
83

84 (b) That as used herein, unless the context hereof, or City Code of
85 Ordinances, requires to the contrary, the following terms will be defined as set forth below:
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87 (1) "City" means the City of Marco Island, a Florida Municipal
88 Corporation.
89

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

92
93 (3) "Development Permit" is defined as set forth in Section
94 163.3164, Florida Statutes.

95
96 (4) "Land Development Code" or "LDC" means the Land
97 Development Code which consists of Chapter 30, Code of Ordinances of the City of
98 Marco Island.

99
100 (5) "Owner/Developer" means Publix Super Markets, Inc., a
101 Florida Corporation, and its successors and assigns, as owners or developers of the
102 Subject Property, and Thomas Sign & Awning Company, Inc., a Florida Corporation, its
103 agent.

104
105 (6) "Subject Property" means the following described parcel of
106 land, lying, situate and being in the State of Florida, County of Collier, City of Marco
107 Island, to-wit:

108
109 All of Tract "A", Marco Beach Unit Five, according to the plat
110 thereof, as recorded in Plat Book 6, Page 39-46, Public
111 Records of Collier County, Florida., less and accept:

112
113 All of the Schilling Building, a Condominium, according to the
114 Declaration of Condominium thereof, including all units and
115 common elements appurtenant thereto, as recorded in
116 Official Records Book 4075, Page 2640 et seq., Public
117 Records of Collier County, Florida (Property Appraiser's
118 Parcel ## 73529000042, 73529000068, 73529000084,
119 73529000107, 735290000123, 73529000147, and
120 73529000165); and

121
122 All of the Plat of Parcel No. 3, according to the plat thereof,
123 as recorded in Plat Book 26, Page 53, Public Records of
124 Collier County, Florida.

125
126 (Said Legal Description has neither been reviewed nor examined by the
127 City, Weiss Serota Helfman Cole & Bierman, P.L., Alan Gabriel, Esq., or
128 Paul R. Gougelman, Esq.)

129
130 (7) "Temporary Sign Plan" means: the 15-page document,
131 prepared by Thomas Sign & Awning Company, Inc. of Clearwater, Florida, under Design
132 Number 87633 and Project Number 81403, dated March 24, 2020, including Sheets 1-
133 13, inclusive (last date of revision being March 26, 2020); Sheet 14 (with no last date of
134 revision); and Sheet 15 (with last date of revision being March 27, 2020), all on file in the

135 City of Marco Island Department of Community Affairs. The Temporary Sign Plan shall
136 contain one a 2' x 10' banner over each occupied tenant space, two 3' x 14' banners
137 advertising the tenants in the center to be hung on the construction fencing along S.
138 Barfield, three temporary directional signs and five 4' x 8' "Pardon our Dust" signs that
139 shall not be higher than 6 feet above average grade of the Subject Property.
140

141 **SECTION 2. Adoption.** The Owner/Developer's variance for the Temporary Sign
142 Plan on the Subject Property is hereby approved. The Temporary Sign Plan is approved
143 subject to the following conditions of approval set forth in Section 3. of this Resolution.
144

145 **SECTION 3. Conditions of Approval.** The Temporary Sign Plan is approved
146 subject to the following condition of approval:
147

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

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

153 (c) The "Pardon our dust" signs shall contain "Shops of Marco" and not
154 "Publix".


155 (d) The tenant banner signs and permanent tenant signs may not be
156 placed on the Subject Property at the same time.
157

158 **SECTION 4. Failure to Obtain Other Permits.** That issuance of this approval by
159 the City does not in any way create any right on the part of the Owner/Developer to obtain
160 a permit from a state or federal agency and does not create any liability on the part of the
161 City for issuance of the approval if the Owner/Developer fails to obtain the requisite
162 approvals or fulfill the obligations imposed by a state or federal agency or undertakes
163 actions that result in the violation of state or federal law. All applicable state and federal
164 permits must be obtained before commencement of the Development on the Subject
165 Property. This condition is included pursuant to Section 166.033, Florida Statutes, as
166 amended.
167


168 **SECTION 5. Failure to Adhere to Resolution.** That failure to adhere to the
169 approval terms and conditions contained in this Resolution shall be considered a violation
170 of this Resolution and the City Code, and persons found violating this Resolution shall be
171 subject to the penalties prescribed by the City Code, including but not limited to the
172 revocation of any of the approval(s) granted in this Resolution and any other approvals
173 conditioned on this approval. The Owner/Developer understands and acknowledges that
174 it must comply with all other applicable requirements of the City Code before it may
175 commence construction or operation, and that the foregoing approval in this Resolution
176 may be revoked by the City at any time upon a determination that the Owner/Developer
177 is in non-compliance with the City Code.
178

179 **SECTION 6. Effective Date.** That this Resolution shall take effect immediately
180 upon adoption.

181
182 ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 20th day
183 of July 2020.

184
185
186 **ATTEST:**
187 
188 _____
189 Laura M. Litzan, City Clerk

CITY OF MARCO ISLAND, FLORIDA
By: 
_____ Erik Brechnitz, Chairman

191
192 Approved as to form and legal sufficiency:
193 
194 _____
195 Alan L. Gabriel, City Attorney

