

RESOLUTION 25-31

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA APPROVING A COASTAL CONSTRUCTION SETBACK LINE (CCSL) VARIANCE FOR THE SUBJECT PROPERTY, LOCATED AT 400 SOUTH COLLIER BOULEVARD, MARCO ISLAND, FLORIDA (PARCEL ID NUMBERS 78567000724 AND 78567000708); MAKING FINDINGS; PROVIDING THAT THE APPROVAL OF THE VARIANCE DOES NOT CREATE A VESTED RIGHT TO ANOTHER DEVELOPMENT PERMIT; PROVIDING FOR FAILURE TO COMPLY WITH THIS DEVELOPMENT PERMIT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 30-753, of the City of Marco Island Land Development Code (“LDC”), provides the location of a coastal construction setback line (“CCSL”), and Sections 30-754 and 30-755 of the LDC provides that no Development shall occur seaward of the CCSL without approval of a variance; and

WHEREAS, Section 30-755, of the Land Development Code provides that a variance may be granted upon the finding of one of the criteria listed; and

WHEREAS, Mass Mutual Life Insurance Company/Baring Real Estate Advisors LLC (the “Owner/Developer”) submitted Variance Petition (CCSL Variance-25-000072) seeking a coastal construction setback line variance for the property located at 400 South Collier Boulevard, Marco Island, Florida 34145 (the “Subject Property”); and

WHEREAS, the City of Marco Island staff has reviewed and recommends the City Council approve CCSL Variance-25-00072; and

WHEREAS, the requested CCSL Variance is consistent with Policy 1.4.1 of the Comprehensive Plan Conservation & Coastal Management Element states:

Policy 1.4.1: The City will cooperate and coordinate with existing county, State, and Federal agencies, as well as non-governmental entities to ensure that established regulatory and enforcement efforts are followed in order to protect native vegetative habitats, marine habitats, and environmentally sensitive coastal areas

WHEREAS, the City Council finds that the Variance Petition meets the requirements of the City of Marco Island Code of Ordinances and should be approved, subject to the conditions of approval set forth in this Resolution.

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

SECTION 1. Adoption and Approval. The CCSL Variance Petition-25-000072 seeking a Coastal Construction Setback Line Variance for the Subject Property is hereby approved seaward of both the 1974 CCCL and the 1989 Coastal Construction Setback Line as recorded in Coastal Setback Line Book 1, Pages 26 through 36, inclusive, Public Records of Collier County, Florida. The Variance shall not exceed the distances as identified in the plan created by Robau, a Bowman company, titled J.W. Marriott Marco Island Beach Resort, Beach Management Plan-Neutral Grading, signed and sealed by Emilio J. Robau, April 9, 2025. This approval is specific to the Subject Property and area identified on the grading plan. The approval of the CCSL variance does not constitute approval of any other potential deviations or a building permit.

SECTION 2. Conditions of Approval. The CCSL Variance approval is conditioned upon the following:

- (1) During turtle nesting season, grading may not take place until the turtle patrol has completed their sweep of the entire beach.
- (2) The Owner shall provide a copy of the approved FDEP permit and any and all subsequent permits to the City Growth Management Department.
- (3) The approval of the CCSL Variance does not constitute approval of any other deviations or constitute the issuance of any required building permits or other agency approvals.

SECTION 3. Development Permit Does Not Create a Vested right For Other Development 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. This condition is included pursuant to Section 166.033, Florida Statutes, as amended.

SECTION 4. Failure to Comply With Resolution. That failure to adhere to the Variance approval and 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. The Owner/Developer understands and acknowledges that it must comply with all other applicable requirements of the City Code before they 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. This Resolution shall be effective immediately upon adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 7th day of July 2025.

ATTEST:

CITY OF MARCO ISLAND, FLORIDA

Joan Taylor, City Clerk

By: _____
Erik Brechnitz, Chairman

Approved as to form and legal sufficiency:

Alan L. Gabriel, City Attorney