

RESOLUTION 26-25

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING VARIANCE PETITION VP 26-000020; PROVIDING FOR A VARIANCE FROM SECTION 4-32(1) OF THE CITY OF MARCO ISLAND CODE OF ORDINANCES TO ALLOW FOR THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES AT THE PROPERTY LOCATED AT 989 WINTERBERRY DRIVE, MARCO ISLAND, FLORIDA, WHICH IS LOCATED LESS THAN 500 FEET FROM A PLACE OF WORSHIP; PROVIDING FOR FINDINGS AND CONDITIONS OF APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 30-65, of the City of Marco Island Land Development Code (“LDC”), which is part of the City of Marco Island Code of Ordinances, provides regulations for the review and approval of variance procedures; and

WHEREAS, Section 4-36, of the City of Marco Code of Ordinances, provides specific standards for granting a variance to alcoholic beverage sale and consumption distance requirements; and

WHEREAS, Frederick C. Kramer, Esq., and Donna DiPromessa, LLC. (“Agent” and “Owner”), submitted a Variance Petition (VP-26-000020) for the property located at 989 Winterberry Drive, Marco Island, Florida 34145 (the “Subject Property”) in order to seek a variance from Section 4-32 of the City of Marco Island Code of Ordinances, which requires that the sale of alcoholic beverages for consumption on-premises be located no less than 500 feet from any established place of worship; and

WHEREAS, the Subject Property is legally described as follows:

MARCO BCH UNIT 10, BLOCK 348, LOTS 13-15; and

WHEREAS, the separation requirement is measured as the shortest distance between the Subject Property and the property on which the applicable use is located, and

WHEREAS, in this instance, the separation distance between the two parcels is 30 feet; however, the structure-to-structure separation between the structure where alcoholic beverages will be sold and the place of worship is approximately 160 feet, and further separated by the Muspa Way alleyway; and

WHEREAS, as stated above, there is an alleyway and proposed landscape buffering between the site and the place of worship; and

WHEREAS, it is reasonable to expect that most, religious services at the adjacent place of worship are conducted indoors, and should not be subject to noise and light disturbance produced by the subject business; and

WHEREAS, alcoholic beverages will be sold in conjunction with food at the proposed café; and

WHEREAS, as proposed, the Owner will install a ten foot wide landscape buffer between the Subject Property and the property on which the place of worship is located; and

WHEREAS, on May 1, 2026, the City’s Planning Board reviewed the petition, and did not recommend approval of Variance Petition VP 26-000020; and

WHEREAS, based upon the testimony and evidence presented, the City Council does hereby find that the Variance Petition meets the requirements of Section 4-36 of the City of Marco Island Code of Ordinances, and hereby approves Variance Petition VP 26-000020, subject to the condition of approval as set forth in this Resolution.

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

SECTION 1. Recitals. The foregoing “Whereas” clauses are hereby ratified and confirmed as being true, correct and incorporated by this reference.

SECTION 2. Variance Approved. Based on the testimony and evidence presented to the City Council, the City Council finds that Variance Petition VP 26-000020 meets the requirements of Section 4-36(b) of the City of Marco Island Code of Ordinances, and hereby approves the variance to Section 4-32(1) of the City of Marco Island Code of Ordinances, subject to the following condition:

1. Owner shall install a ten foot (10’) wide landscape buffer along the property line separating the Subject Property from the property on which the Jewish Center of Marco Island is located.

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 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 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 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 is in non-compliance with the City Code.

SECTION 5. Effective Date. That this Resolution shall take effect immediately upon adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 1st day of June, 2026.

ATTEST:

CITY OF MARCO ISLAND, FLORIDA

Joan Taylor, City Clerk

By: _____
Darrin Palumbo, Chairman

Approved as to form and legal sufficiency:

Alan L. Gabriel, City Attorney