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

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

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

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

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

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

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

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

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

Commencing at the centerline of the intersection of North Collier Boulevard and State Road 953, formerly known as S-951 thence run S.  $20^{\circ} 52' 10''$  E. along said centerline of SR 953 a distance of 215.00 feet; thence run N.  $69^{\circ} 07' 50''$  E. for a distance of 50 feet to a point on the Northeasterly right-of-way of said SR-953 to the Point of Beginning of the parcel hereinafter described; thence run N.  $68^{\circ} 56' 14''$  E. for a distance of 250.56 feet; thence N.  $21^{\circ} 03' 46''$  W. for a distance of 165.00 feet on the Southeasterly right-of-way line of North Collier Boulevard; thence N.  $68^{\circ} 56' 14''$  E. along said right-of-way line for a distance of 489.88 feet to a point of curvature of a circular curve to the right having a radius of 1950 feet; thence run Easterly along said right-of-way line and the arc of said curve with a central angle of  $00^{\circ} 57' 41''$  for a distance of 32.72 feet; thence leaving said right-of-way line S.  $21^{\circ} 03' 46''$  E. for a distance of 189.73 feet; thence run N.  $68^{\circ} 56' 14''$  E. for a distance of 160.00 feet to a point on the Westerly right-of-

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

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

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

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

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

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

**SECTION 4. 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 5. 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 6. Effective Date.** This Resolution shall be effective immediately upon adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 4<sup>th</sup> day of May 2020.

**ATTEST:**

**CITY OF MARCO ISLAND, FLORIDA**

\_\_\_\_\_  
Laura M. Litzan, City Clerk

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

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Alan L. Gabriel, City Attorney